

14287

- 1 Q. So if you described the shooters coming out of a black
2 Lincoln before they shot you, were you trying to intentionally
3 deceive them that night or were you just trying to not put
4 somebody's name in it?
5 A. I honestly don't remember.
6 Q. Because you were so high -- I'm sorry, because you were
7 high and it was 11 years ago, right?
8 A. Me being high didn't have anything to do with it.
9 Q. Being high doesn't affect you?
10 A. Not at that point.
11 Q. Not at that point?
12 A. No.
13 Q. You got high so much back then?
14 A. No.
15 Q. Well, why do you use drugs if it doesn't affect you?
16 A. I don't use drugs, sir.
17 Q. Well, back then you were using them, right?
18 A. Yeah.
19 Q. Did they affect you when you used them?
20 A. Of course.
21 Q. Okay.
22 A. Nothing affects you when you used them back in the day?
23 Q. I'm sorry?
24 A. My dealings didn't affect you, when you used them back in
25 the day?

Scott L. Wallace, RDR, CRR
Official Court Reporter

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- 1 THE WITNESS: Right.
2 THE COURT: Go ahead. Put your next question.
3 BY MR. ZUCKER:
4 Q. Sure. And you had nothing to drink that day and used no
5 other drugs?
6 A. No.
7 Q. You were using other drugs back around that time, were
8 you not?
9 A. No.
10 Q. The only drug you used back then was marijuana?
11 A. Yes.
12 Q. You did drink alcohol back then, right?
13 A. Uh, yeah, when I went out.
14 Q. You didn't drink alcohol when you were around the house?
15 A. No.
16 Q. What had you done earlier that evening? Do you remember,
17 11 years ago?
18 A. No, I don't know exactly what I did earlier that evening,
19 no.
20 Q. So you don't know whether or not you went out, do you?
21 A. No, I didn't go out.
22 Q. Well, what had you done?
23 A. Naw, because if I had went out, I wouldn't be sitting on
24 the porch at 1:00, I would still be in the club at 1:00.
25 Q. And you and JJ didn't drink at all?

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- 1 Q. I'm not on the stand, but I'll be glad to discuss that
2 with you off the record.
3 A. All right.
4 Q. But you do acknowledge that the drugs did affect you,
5 right?
6 A. Um-hmm.
7 Q. Just for him, you have to say yes or no.
8 A. Yes.
9 Q. I don't mean to be rude, but I saw you shaking your head
10 yes.
11 And did it affect your ability to remember things, for
12 one thing?
13 A. No.
14 Q. Being high doesn't affect your ability to remember
15 things?
16 A. No.
17 Q. Does it affect your ability to perceive things?
18 A. No, not to me.
19 Q. Not you?
20 A. Not to me.
21 Q. What effect do they have on you?
22 A. My relaxing, I guess at that point.
23 Q. Incidentally, this was 11 years ago -- well, a little
24 over ten, right?
25 MR. GUERRERO: Objection, asked and answered.

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- 1 A. No, JJ couldn't drink.
2 Q. JJ couldn't drink?
3 A. Yeah, well, he was on dialysis, so he didn't drink.
4 Q. JJ didn't drink at all?
5 A. Not that I know of.
6 Q. All right. What have you done to prepare yourself for
7 testifying today, to review?
8 A. What do you mean?
9 Q. I mean, what have you reviewed? Did you review your
10 grand jury transcript?
11 A. Yeah. Yeah.
12 Q. Okay. Did you review any police reports?
13 A. No.
14 Q. Anything else you reviewed?
15 A. No.
16 Q. Incidentally, you never told the grand jury that you were
17 smoking weed that evening, did you?
18 A. No.
19 Q. Had you told the police and the prosecutors that, that
20 evening or before you went in front of the grand jury?
21 A. No.
22 Q. You hadn't told them that?
23 A. No, no the that I remember. No.
24 Q. Why not?
25 A. I just didn't.

Scott L. Wallace, RDR, CRR
Official Court Reporter

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	Docket No. CR 05-100
	:	
Plaintiff	:	
	:	
v.	:	Washington, DC
	:	
ANTWUAN BALL,	:	
DAVID WILSON,	:	
GREGORY BELL,	:	June 6, 2007
DESMOND THURSTON,	:	
JOSEPH JONES,	:	
DOMINIC SAMUELS,	:	
	:	
Defendants	:	1:45 p.m.
.	:

VOLUME 62 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS,
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE
GLENN S. LEON, ESQUIRE
GIL GUERRERO, ESQUIRE
UNITED STATES ATTORNEY'S OFFICE
555 Fourth Street, NW
Washington, D.C. 20530

For the Defendant
Antwuan Ball: JOHN JAMES CARNEY, ESQUIRE
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(202) 434-8234

STEVEN CARL TABACKMAN, ESQUIRE
TIGHE, PATTON, ARMSTRONG,
TEASDALE, PLLC
1747 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006
(202) 454-2811

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1 of the individuals who shot him, had you or anybody else in law
2 enforcement told him that that person was Dazz?

3 A. Repeat your question.

4 Q. Prior to the time that you took Mr. Thurston and placed the
5 lights on him and asked Mr. Ewing to identify him, had you or
6 anybody else, the other officer, ever told Mr. Ewing that that
7 individual you're pulling out right now is Dazz?

8 A. No.

9 Q. And you mentioned a Mr. Roberson. Is that correct?

10 A. Correct.

11 Q. Did you take Mr. Roberson and shine the lights on him?

12 A. Yes.

13 Q. And what happened when you did that? What did Mr. Ewing do?

14 A. He reported that that was also one of the individuals who
15 shot at him.

16 Q. And now, the third individual, Mr. Cooper. Did Mr. Ewing
17 identify Mr. Cooper as anybody who shot at him?

18 A. No.

19 Q. Again, I'm going to ask, on Mr. -- when you refer to
20 Mr. Roberson, at the time that Mr. Ewing identified Mr. Roberson
21 as a person who shot at him, prior to that time, had you or
22 anybody -- other officers to your knowledge told Mr. Ewing who
23 that -- the nickname of that individual?

24 A. No. The complainant told me what their nicknames were.

25 Q. And what nicknames did the complainant tell you?

1 A. Dazz and LT.

2 Q. And once Mr. Ewing identified Mr. Thurston as an individual
3 who shot at him, what did you do?

4 A. They were placed under arrest.

5 Q. You said they. Who else was placed under arrest?

6 A. LT and Dez were placed under arrest.

7 Q. And you said they were placed under arrest. What did you do
8 regarding Mr. Thurston?

9 A. They were placed under arrest by the assisting units, and we
10 transported them to the district and processed them.

11 Q. And did you process Mr. Thurston?

12 A. Yes, I did.

13 Q. As part of the processing information, what kind of
14 information do you get from Mr. Thurston?

15 A. Name, date of birth, Social Security number, home address, a
16 physical description, height, age, place of birth.

17 Q. And where do you record that information?

18 A. On a 163.

19 MS. PETALAS: Court's indulgence.

20 May I approach, Your Honor?

21 THE COURT: Yes.

22 BY MS. PETALAS:

23 Q. I'm showing you what's been marked as Government's
24 Exhibit 402.6. Do you recognize that?

25 A. Yes.

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1 A. Yes.

2 Q. And you went over to the address and you spoke with

3 Mr. Ewing. Right?

4 A. Yes.

5 Q. And on that occasion Mr. Ewing told you that Dazz was one of

6 the people involved in this incident. Right?

7 A. That's correct.

8 Q. He gave you the name. Right?

9 A. Yes.

10 Q. And you had been a patrol officer in that neighborhood for

11 what, about three years prior to this?

12 A. Yes.

13 Q. And without going into details, you actually knew Desmond

14 Thurston back then, somewhat, didn't you?

15 A. I didn't know him.

16 Q. Did you know him as Dazz?

17 A. No.

18 Q. Did you -- you had contact with him other than this case.

19 Right? Or don't you recall?

20 A. I don't recall as to how frequent I came in contact with

21 him.

22 THE COURT: Adjust the angle of your screen.

23 BY MR. ZUCKER:

24 Q. You said how frequently?

25 A. Yeah.

1 eventually shot him was that he saw them get out of the car and
2 begin to shoot at him?

3 MS. PETALAS: Objection, Your Honor. I apologize. I
4 withdraw.

5 A. Repeat your question, sir.

6 BY MR. ZUCKER:

7 Q. Sure. Isn't it true that when you first interviewed
8 Mr. Ewing, he said that the first thing he noticed was when the
9 people got out of the car and began shooting at him?

10 A. Yeah, that's correct.

11 Q. Okay.

12 A. Got out of a car.

13 Q. He never described them driving up and down the block before
14 that occurred, did he? And if you need to look at any report to
15 refresh your recollection, or your grand jury, feel free.

16 A. I don't recall him saying that to me, no.

17 Q. And he never described them walking through a cut and
18 approaching his house before the shooting, did he?

19 A. No.

20 Q. Do you know where the shell casings were recovered, sir?

21 MS. PETALAS: Objection, Your Honor. Basis of
22 knowledge as to this witness, and outside the scope.

23 MR. ZUCKER: I'll rephrase.

24 BY MR. ZUCKER:

25 Q. You were on the scene that evening. Right?

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100
:
Plaintiff :
:
v. : Washington, DC
:
ANTWUAN BALL, :
DAVID WILSON, :
GREGORY BELL, : September 24, 2007
DESMOND THURSTON, :
JOSEPH JONES, :
DOMINIC SAMUELS, :
:
Defendants : 1:15 p.m.
..... :

VOLUME 95 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS,
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE
GLENN S. LEON, ESQUIRE
GIL GUERRERO, ESQUIRE
UNITED STATES ATTORNEY'S OFFICE
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Antwuan Ball: CARNEY & CARNEY
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TIGHE, PATTON, ARMSTRONG,
TEASDALE, PLLC
1747 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006
(202) 454-2811

1 introduce some additional evidence on behalf of his client.

2 MR. ZUCKER: Thank you, judge.

3 Ladies and gentlemen, there were two stipulations
4 entered, and you'll have copies of these in writing in the back.
5 They'll be Defendant Thurston's five and six. The first one is
6 number five: "The parties in this case, the United States and
7 all defendants, stipulate that the following matter is not in
8 dispute: That Desmond Thurston was never employed by Eagle
9 Technology Security in any capacity." That's number five.

10 Number six, again, "The parties in this case and the
11 United States agree that Desmond Thurston" -- or "that following
12 matter is not in dispute: That Desmond Thurston was
13 incarcerated from January 24th, 1995 until January 3rd, 1996,
14 and from June 29th, 1996 until July 28th, 1997."

15 Again, these will be in writing, and you'll have copies
16 of them.

17 Move them in, please. May I move them in formally?

18 THE COURT: All right. They'll be received.

19 (DEFENDANT THURSTON Exhibit Numbers 5, 6 were moved
20 into evidence.)


21 THE COURT: All right. Ladies and gentlemen, what
22 we're going to do is to take about a 15-minute break. I would
23 ask that you come back at 4:30, and then we'll just have some
24 additional matters running up until 5:00.

25 Take your notes back into the jury room with you, and

EXHIBIT F



To: Honorable Judge Richard W. Roberts
U.S. District Court for the District of Columbia
333 Constitution Avenue, N.W.
Washington, D.C. 20001

From: Dr. Benedict L. Kargbo 
Correctional Treatment Specialist
D.C. Department of Corrections
1901 D Street, S.E.
Washington, D.C.

Subject: Recommendation for Time Served/Early Release

Reference: Thurston Desmond – Inmate (DCDC #270-249
Case #05082950/CRO5-000100-13
D.C. Department of Corrections
1901 D Street, S.E.
Washington, D.C. 20001

Date: February 14, 2008

Dear Hon. Judge Roberts:

I face the enormous, demanding, challenging and judicious task of dealing with incarcerated members of our beloved country everyday: individuals who need mental, physical and spiritual rehabilitation while serving time behind bars for their intentional or situational criminal behavior. My arduous responsibility as case manager is to realistically, objectively and rationally assess and evaluate inmates to determine whether or not their conduct/activities behind bars merit my sound judgment of recommending their release to society.

One such inmate is the above-referenced Thurston Desmond whose penal demeanor I have carefully studied, analyzed and evaluated as noteworthy. Mr. Desmond has demonstrated an exemplary determination to change his lifestyle and his environment to be in accord with the rule of law and human values that make our diverse communities safe, peaceful, progressive and livable. From my candid conversations with him he has sufficiently embraced such universal truths as:

When we enter planet earth from birth we will journey from one point of our lives to another (the last point we call "death") and from one place to another – the unknown. And the route we are spiritually and physically purposed to travel could be long or short, narrow or wide, dark or lit up - because we so caused it to be. There are cataracts, rivers, mountains, valleys and forests of trials and challenges that may face

us as life lessons. We may find such lessons too long or too short, too hard or too easy; beneficial or catastrophic because we adopted the process of trial and error or experimentation to pass or fail the test. This is the informal school called life where the instructions for the correct answers to the tests from the lessons are readily available in Life's Study Guide called the Bible – GOD'S "Basic Instructions Before Leaving Earth." A lesson is repeated in various formats until learned and then you go on to next and then the next till you reach your destination with a passing or failing grade.

Mr. Desmond accepts responsibility for his actions – intended or circumstantial. He has come to believe that he has GOD-GIVEN tools and resources at his disposal to make his life unproblematic, productive, pleasant, joyful, peaceful, meaningful, fruitful, successful and subsequently happy; that the answers to every problem, challenge, adversity, hardship, anxiety, fear and/or fear he has ever faced lie within him, because GOD has given him victory over all these things by obeying HIS commandments. And all he need do therefore, is apply himself with faith and trust to let GOD guide his thoughts and actions.

I am not a pastor or preacher but I am a relentless believer in the power and authority of GOD to change base metals into gold and, as such, change bad people into extremely good people. This is why I am apt to honestly certify that having supervised and counseled Mr. Desmond for two consecutive years as his case manager, I have come to assess him as an individual who is family-oriented, very likeable, unselfish and caring as indicated by his humble attitude towards his fellow inmates and his honest respect for correctional officers/personnel. He has made every effort to willingly participate in rehabilitative programs. I doubt very little that any and all correctional officers who have worked with and supervised Desmond will hesitate to echo/concur with my observations and recommendations. He truly needs the chance to express his love for self and people and indulge in meaningful activities that contribute to his new outlook on life.

I therefore ask your honorable court to exercise its humanitarian duty and its judicious wisdom and authority to put Desmond back to a sane world that would let him donate himself and his services toward human development and progress; and let his new found relationship with GOD, manifest itself in expressing love and hope to light up his way to personal growth for all that he has learned through formal and informal education to better community and mankind. I therefore, recommend him for an early release from incarceration as his case manager.

Sincerely,

Dr. Benedict L. Kargbo, Treatment Specialist/Case Manager

Copy: Jonathan Zucker, Attorney
Law Office of Jonathan Zucker
514 10th Street, N.W., 9th Floor
Washington, D.C. 20004

Dear Judge Richard W. Roberts,

I am writing on behalf of Desmond Leo Thurston. I am Mr. Thurston's significant other and would like to inform you that Mr. Thurston is indeed a change man. Although he has made mistakes in his past coming up as a youth in a neighborhood filled with victims of poverty, violence, no guidance and the least of education he has made a tremendous change as an individual. Through his years of incarceration he and I have spent our time wisely on getting him on the correct path to a positive and lucrative future as a civilized citizen should do. We have carefully strategized his predicament and came up with an outstanding plan to retransform Mr. Thurston to become a positive figure for today's troubled youth, that are coming up in today's society, whom are faced with life's deepest and unbearable trials and tribulations. First and foremost Desmond will be joining me to a new location, which is Florida. I have an apartment there and am currently a sophomore and fulltime student at Florida Memorial University. I'm studying Psychology with a minor in journalism. My future goals are to not only become a Psychologist and Journalist but to also open a few shelters and group homes for troubled youth. I explained to Mr. Thurston my future plans and he is not only thrilled but will also love to take part in this as well. We are planning for him to be one of the head mentors of the program. I expressed to Desmond that before we get ahead of ourselves with that that when he comes to Florida he is to continue his education, start mentoring at other group homes while having an official tax-paying job. We've been doing some research and are happy to say that we've found a lot of outstanding rehabilitation programs for men such as Mr. Thurston. In fact I have been networking to meet people that will help him to become a better man whom I believe he has already begun to evolve into. Judge Roberts I am asking for your deepest consideration and sympathy to give Desmond Leo Thurston one last chance. He is a devoted father of three with great intentions for his three girls to have a father in their lives for a solid foundation. Desmond is not only a great and dedicated father but also love and caring brother, friend, teacher and soon to be husband. We would greatly appreciate it if you would analyze the entire situation just as the jurors in this case has done and make a fair decision on whether or

not Desmond should be granted a second chance. Yes, he was found guilty on certain accounts but we all know that he has served his time for that. Desmond has truly changed and not just for himself but for his three younger girls, his family and for myself. Again I ask please do not judge him from his previous mistakes as a misguided individual I ask for you to judge him for the progress he has made and the lessons he has learned. No one should be judged for his or her past because none of us are the same person we were yesterday. I would like to conclude this letter by saying thanks for your time, patience and acceptance of this letter.

Sincerely,

De'Lesia Harris

A handwritten signature in black ink, appearing to read "De'Lesia Harris". The signature is written in a cursive, flowing style with a large initial "D".

2/24/08

Dear Honorable Judge Richard W. Robert,

My name is Carisma L.E Short, I am 14 years old and live in Gaithersburg Maryland. I go to Gaithersburg High School. I am a very outgoing and active girl. I was on the Step and Dance team and I now plan to run track. Every step competition and dance competition I have had my father Desmond Thurston has not been there. The next competition I have I hope to see my dad in the front seat watching me. One day I hope to open my own hair salon or become a lawyer. I have 2 younger sisters Jazmin Jones and Malajah Taylor. Jazmin is 8 years old and Malajah is 4. Our father Desmond Thurston went to jail 4 years ago. In those four years things started to go down hill for our family. He has missed 12 birthdays, 4 Christmases, and 3 graduations. I am writing this letter

to you asking for the early release of my father. Its been rough without him here. My grades have been slipping from A's to C's to sometimes even D's. Two years ago on February 27, 2006 my grandmother Maria Thurston passed away. They wouldn't even let my father come to the funeral of his own mother. That hurt so bad because he was supposed to be there through the pain, and mourning. For those next two months I cried and cried knowing my grandma whom was like my 2nd mom was gone and knowing my dad wasn't there to tell me it would be okay. My father is a great friend, dad, and a person to everyone who has known him. My dad would do anything for my sisters and I. Even though he is in a correctional facility he still tries to provide for us by asking his brothers and friends to do things for my sisters and I. Officers and other people in the government might see him as a bad person but he is not he's loving,

caring, and a man whom loves is 3 little girls. I was 11 years old, Jazmin was 4 years old, and Malajah was not born yet when he went away. We all thought it was just for a little while but in a result it was a very long time. I have not yet seen my sister Malajah Taylor, because of how far apart we are. My dad would always come to get me every weekend, and take me to see Jazmin. Then afterwards we would go see Malajah's mom. When Malajah was born I had no idea until about three weeks later. Since then I have not seen Malajah, only contact we have made was over the phone. The last thing I remember doing with my dad and Jazmin was when he picked me and Jazmin up and took us to this huge park; with these giant slides and a field like a football field. We played tag till we were all tired, then he took us to McDonalds, and on the way there he sang a girl song. That day I'll never forget because I spent it with him. So

Exhibit G

December 10, 2007

The Honorable Richard W. Roberts
United States District Judge
333 Constitution Avenue, NW
Washington, DC 20001

RECEIVED

DEC 13 2007

Chambers of Judge Roberts

Dear Judge Roberts:

First, thank you very much for the organized and considerate way you handled the proceedings during the criminal case of United States v. Ball et al. As a member of the jury, I felt you did everything possible to move the case forward while still being considerate of members of the jury and other parties involved with the case.

I do feel that the case against the defendants would have been more fairly tried if the prosecution had just focused on the crimes for which they had solid evidence against the defendants. In my mind, I not only could not see a conspiracy among the defendants but also saw no real attempt by the prosecution to present any hard evidence of a conspiracy.

However, the prosecution having charged these individuals with conspiracy, apparently felt they must include almost every crime which one or more of the defendants might have committed over the decade or more of the supposed conspiracy. As a juror, with so many charges to consider, I was often baffled as to which charge a witness was testifying about or why the testimony was relevant at all.

As a jury, we first deliberated on the murder charges. With some of these charges, the testimony and other evidence was so lacking that we found the defendant not guilty with very little discussion. I did wonder if some of the murder charges would ever have reached the trial stage if they had been prosecuted individually. The drug charges took a bit longer but only because the audio and video tapes were so bad it was difficult to tell what was being said. It would seem in this technological age that something could be implemented to better show a drug transaction. That done, we were really only left with the conspiracy and racketeering charges. It actually didn't take all that long for the jury to find there was no conspiracy. Once that was decided, and we educated ourselves on what racketeering was (excellent instructions from the bench, by the way), we decided if there was no conspiracy there could be no racketeering.

In any case, there seemed to be only enough evidence to charge the defendants on about half the drug charges and one of the murder charges out of the 58 or so counts against them. I felt if it were not for the conspiracy charges, many of the other charges would simply not have been brought. This would undoubtedly have made for more individual trials but in local rather than the Federal court. It would also not have burdened the Federal court with a nearly 10 month trial.

Although I faced no real hardship during the trial, several of my fellow jurors did. Some of those you heard about and I thank you for taking the swift and forceful actions against the employers who were frustrated by losing their valuable employees.

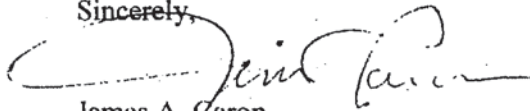
As an economist, I know little of the intricacies of the law. I do wonder if the approach of charging a conspiracy and including so many other charges, many without any solid evidence, is fair to those charged with these crimes. I had to ask if the prosecution was driving to find the truth or simply to get a conviction.

My purpose in writing this letter, Judge Roberts, is to ask you to do all in your power to see that when cases like this are brought forward, they be carefully reviewed before being allowed to proceed. I do understand you deal with these issues every day but knowing you are a considerate man I also knew you wouldn't mind hearing from a juror.

In any case, in the odd chance I can do anything to help the process please let me know. Also, please feel free to share this letter with anyone whom you think might benefit from these thoughts.

My best wishes to you and your staff over the upcoming Holidays, and thank you.

Sincerely,



James A. Caron
(Juror #6)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA :

v. : Cr. No. 05-100-17 (RWR)

DESMOND THURSTON, :
also known as Dazz, :
Defendant. :

**GOVERNMENT’S REPLY MEMORANDUM IN AID
OF SENTENCING FOR DESMOND THURSTON**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, herewith files this reply memorandum in aid of sentencing for defendant Desmond Thurston. In his memorandum in aid of sentencing, defendant Thurston makes certain legal and factual arguments which are either inaccurate as a matter of law, or fact, or both. The government therefore relies on the following points and authorities in this reply memorandum and any other points and authorities that may be cited at the sentencing hearing.

1. Citing little or no authority, Thurston argues that the position of the government (as supported by the calculations made by the United States Probation Office) that Thurston receive a sentence in between the recommended range of 324 to 405 months incarceration is “constitutionally repugnant” (Thurston Mem. at 1). Mr. Thurston is essentially asking this Court to ignore its obligations as set forth by the Sentencing Guidelines, Section 3553(a), and applicable case law. Indeed, as recently as last week, the District of Columbia Court of Appeals affirmed the principle that a sentence within a properly calculated Guidelines range is entitled to a rebuttable presumption of reasonableness. *See United States v. Melvin B. Brown*, --- F.3d. ---, slip op. at 4 (No. 03-3102, Feb.

29, 2008).

2. At one point in his memorandum, Thurston goes so far as to suggest that this Court should consider the personal opinions expressed by Juror #6 in determining what the appropriate sentence should be for Mr. Thurston (Thurston Mem at 23.). While there are a number of factors a court must consider in determining the appropriate sentence to impose on a criminal defendant, one factor that is clearly irrelevant is the personal opinion of any juror. *See, e.g., United States v. Rowe*, 144 F.3d 15, 19, 24 (1st Cir. 1998); *see generally* Red Book Instruction No. 2.71. Indeed, the personal opinion of a single juror is just as irrelevant for sentencing purposes as the views of the mother of Trevon Shaw, who sat through almost every day of the trial and who has lived in Congress Park for much of her life. Similarly irrelevant are the opinions of certain witnesses who reluctantly testified at trial, and who have expressed concern for their personal safety. This is why the judicial system clearly assigns final sentencing determinations to courts, and to courts alone. It is important to stress that the government is not asking this Court to do anything which is outside of its clear authority. Instead, the government is asking that the Court follow the recommendation of the United States Probation Office, and impose a sentence within the presumptively-reasonable Guidelines range, and which is still less than the maximum sentence that it has the authority to impose.

3. Thurston also acknowledges that there is no controlling authority requiring this Court to impose the higher “clear and convincing” standard of proof to its analysis of the relevant conduct in this case. Indeed, every case in this Circuit that has addressed this issue has applied a preponderance standard. *See, e.g., United States v. Dorcely*, 454 F.3d 366 (D.C. Cir. 2006) (upholding a sentence of 24 months incarceration although recommended Guidelines range was 0-6 months, where the district court found by a preponderance of the evidence that the defendant was in fact involved in charged

conspiracies for which he was acquitted); *United States v. Long*, 328 F.3d 655, 670-72 (D.C. Cir. 2003); *United States v. Graham*, 317 F.3d 262, 269-70 (D.C. Cir. 2003); *see also United States v. Lawson*, 494 F.3d 1046, 1057-58 (d.c. Cir. 2007) (“[W]here the court finds by a preponderance of evidence that the defendant was engaged in the conduct for which he was charged, this finding becomes a factor in determining the properly calculated Guidelines range.”) (citing cases). While the government does not agree that the clear and convincing standard is legally warranted, the government is comfortable holding the relevant conduct cited in its memorandum and in the PSI up to this higher level of scrutiny.

4. Thurston also summarily discredits all of the testimony of Bobby Capies, Cedric Conner, Gail Parson and Ed Martin, cited by the government, claiming that in each instance, the sworn accounts of these witnesses lack sufficient indicia of reliability. *See* Thurston Mem at 4-12. Thurston essentially asks this Court to dismiss their sworn accounts, out of hand, because these witnesses were drug addicts and cooperating witnesses, rather than make its own independent assessment of these witnesses’ credibility. *Gall v. United States*, No. 06-7949, 128 S. Ct. 586, 597 (2007) (“The sentencing judge sees and hears the evidence, makes credibility determinations, has full knowledge of the facts and gains insights not conveyed by the record.”)

5. Thurston also cherry-picks certain portions of the record to such an extent that it verges on being almost misleading. For example, in arguing that Ms. Parson’s testimony should not be credited because she was purportedly inconsistent in her testimony as to whether she had purchased “an eightball” from Thurston (Thurston Mem. At 11), Thurston cites a single page of the trial transcript (page 2178), but ignores the very next two pages (during the same exact line of cross-examination) where she clearly states that she had purchased eight-ball quantities from Thurston “in dime-form” rather than as a solid piece. 3/22/07 Tr. at 2179-80. Indeed, this is not only *not* an

inconsistency in her testimony, but also perfectly logical – as an addict lower down in the pecking-order, Ms. Parson was unlikely to be able to purchase eight-balls in “wholesale” form. (Relevant excerpts from Ms. Parson’s trial testimony are attached hereto as Exhibit A.) Similarly, while Thurston argues that Mr. Martin purchased crack cocaine from as many as nine different dealers in Congress Park, the only fair reading of Martin’s and Parson’s combined trial testimony is that Thurston was Martin’s primary, if not virtually exclusive, source of crack cocaine.¹

6. Similarly, while Thurston argues that Capies’ testimony regarding Thurston’s routine crack cocaine dealing should be discounted, he ignores entirely the fact that Capies’ testimony is corroborated by the trial testimony of Jacques “JT” Powell. *See* Government Mem. at 16, n.10. This is surely because Mr. Powell was an extremely credible witness in his own right, and corroborated in many regards.² Indeed, the testimony of Capies and Powell regarding how Thurston was a fixture in Congress Park selling crack cocaine during the 1990s and the years that followed is also supported by other witnesses. For example, Kairi Kelliebrew testified that in the late 1990s, Thurston was one of the regular people selling crack cocaine in Congress Park, including “the Circle” and was also one of the regular dealers who would buy, or sell, “wholesales” to other dealers in Congress Park. 5/7/07 Tr. at 10130-39. (Relevant portions of Mr. Kelliebrew’s trial testimony are attached hereto as Exhibit C.) Witness Keith Barnett testified that he would often play “doors” with several other accepted drug-dealers in Congress Park, including Thurston 4/18/07 Tr. at 7551-60 (attached hereto as Exhibit D). Similarly, witness Robert Pough also testified that when he went to “the Circle” during 1996 and

¹ At one point during cross-examination, Thurston elicited the fact that Thurston encouraged Martin to buy his crack cocaine only from him, for his own safety. 3/22/07 Tr. at 3828 (attached hereto as Exhibit B).

² Among other things, Powell testified regarding statements made by Dominic Samuels implicating himself (Samuels) in the August 2002 murder of Jamel Sills. Samuels has recently admitted he in fact committed this murder.

thereafter, Thurston was one of the regular people he would see there. 5/17/07 Tr. at 11659-63 (attached hereto as Exhibit E).

7. Thurston also argues that the relevant conduct cited by the PSI writer and the government in support of an attribution of 1.5 kilograms of crack cocaine to Thurston is improper for the additional reason that there is not sufficient proof that the relevant conduct relates to the two counts that Thurston was convicted of. Thurston Mem. at 12-15. To this end, it is first helpful to take a more careful look at these two counts:

**a. Count 11 – May 16, 2000 Controlled Purchase
(Government Exhibits 308, 308.1, 308.2, 308.2A, 308.4 and 308.8)**

Evidence of this controlled purchase came in through various witnesses, including cooperating witness Sandra White, who engaged in the controlled purchase under the supervision of the FBI.

As the testimony of Ms. White (as supported by the audiotape of the controlled purchase as well as the testimony of FBI Agent Rob Lockart) demonstrated, Ms. White met with Gregory Bell and Thurston at 13th Place and Congress Street, SE. Bell sold White an eight-ball (1.2 grams of crack cocaine) for \$150. Thurston sold the White three additional small zips (.240 grams) of crack cocaine for \$25.00.

Ms. White was originally looking to purchase cocaine from David Wilson, and arrived at the rental office building (1313 Congress Street, S.E.) for that purpose. However, Bell approached her and offered to sell her an eightball for \$150. Bell ran across the street to his mother's house to get the cocaine. Meanwhile, Wilson arrived and approached White. Wilson enlisted Thurston to make the sale by calling him on the phone. (Wilson tells Thurston, "I'm trying to get you some money.") In the meantime, Bell returned, and served White.

While Bell is serving Ms. White, Thurston showed up and asked her to spend \$25 with him as well. She did so. Upon his arrival, Thurston yelled let me get "*doors*."

Thurston actually drove White further up the block toward Alabama Avenue. He then got out, got the crack cocaine, returned to the car, and served White outside of the car.

**b. Count 24 – November 18, 2003 Purchase to an Undercover Police Officer
(Government Exhibits 608.1, 608.1A, 608.3, 608.6, 608.7, 608.8)**

MPD Officers Toni Walls, Anthony Guice, Howard Anderson, and Shaun Eppinger, testified regarding this MPD "Buy-Bust" operation.

On November 18, 2003, at approximately 10:50 p.m. in front of 1305 Congress Street, SE, Washington, D.C., Officer Walls, acting in an undercover capacity, purchased crack cocaine from Thurston and Marquita Giles. Specifically, Officer Walls first spoke to Giles, agreed upon the sale of two ziplocks of crack cocaine. Walls then saw Giles confer with Thurston, who then walked over to a white van to retrieve the crack cocaine. Giles then completed the sale with Officer Walls. A lookout was then given for Thurston and Giles.

Shortly thereafter, Gregory Bell was seen by officers ducking down at the driver's seat of a white Chevy van that had expired temporary tags. When officers approached Bell inside of this white van, they recovered a bag containing 42 ziplocks of marijuana underneath the driver's seat of the vehicle where Bell was previously seen reaching. Also recovered near the driver's side door of the van was \$5.00 of MPDC prerecorded funds that had been used in the previous undercover sale to Thurston and Giles. In addition, \$2227.00 in cash was recovered from Bell's left sock.

8. Both of these offenses of conviction demonstrate not only that Desmond Thurston dealt crack cocaine in Congress Park in 2000 and 2003, but also show how he partnered with other crack cocaine dealers in Congress Park – such as Bell, Wilson and Giles – and also how this partnership was extremely useful in allowing him to deal crack cocaine in Congress Park. Indeed, the relevant conduct cited by the PSI writer and the government – including but not limited to the use of the term “*doors*,” the sharing and referral of customers, the sharing of suppliers, the chasing away possible rival dealers, the buying and selling of “wholesales” to other accepted crack cocaine dealers – are all part of the same course of conduct and common scheme or plan as the two counts of conviction. *See* U.S.G.G. Section 1B1.3(a)(2) and Commentary Application Note 9. Such relevant conduct also occurred in preparation for the offenses of conviction. U.S.S.G. Section 1B1.3(a)(1).

9. Similarly, the previously-cited testimony of Bobby Capies also demonstrated how Thurston and other drug dealers in Congress Park not only participated in the “*uno dos tres* system” of sharing drug sales for safety reasons as a result of increased violence with 10th Place. *See e.g.* 4/3/07 Tr. at 5337, but also carried and stashed weapons throughout the late 1990s and years that followed in

Congress Park as well. 4/4/4/07 Tr. at 5681-82.³ See Thurston PSI at Paragraphs 49 and 50. Relevant conduct such as this justifies the two-point enhancement for possession of a dangerous weapon, because this possession is not only part of the same course of conduct and common scheme or plan as the two counts of conviction, but because such weapons possession occurred in preparation for the offenses of conviction, and in the course of attempting to avoid detection or responsibility for these offenses. See U.S.S.G. Section 1B1.3(a)(1).

10. Finally, Thurston's objection to a two-point enhancement to his criminal history calculation because he committed the instant offense within two years of being under a criminal justice sentence is similarly misplaced. Thurston Mem. at 17. The Guidelines are clear that for purposes of this criminal history calculation, "instant offense" includes any part of the instant offense, including relevant conduct. See U.S.S.G. Section 4A1.1, Commentary, Application Note 4.

³ Relevant copies of this portion of Mr. Capies' testimony are attached hereto as Exhibit F.

WHEREFORE, the United States respectfully requests that the Court sentence defendant Desmond Thurston to a period of incarceration of between 324 to 405 months.

Respectfully submitted,

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EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : March 8, 2007
 DOMINIC SAMUELS, : 9:23 a.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 14 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
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For Defendant CARNEY & CARNEY
Antwuan Ball: John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 Q. Okay. Now, in those 10 or 20 times -- incidentally, what
2 quantities did you -- what quantities do you recall buying from
3 Mr. Thurston?

4 A. Anywhere from dimes to -- dimes.

5 Q. Just dimes?

6 A. Yes.

7 Q. Might have been a 20 on occasion or not even that big?

8 A. Well, they were dimes, but they added up to different
9 amounts.

10 Q. All right. Might have been multiple dimes, right?

11 A. Yes.

12 Q. But only dimes, and possibly multiple times, right?

13 A. Yes.

14 Q. You certainly never bought a large wholesale quantity
15 from Thurston, did you?

16 A. No.

17 Q. Have you ever -- the largest amount you ever bought in
18 your life was an eight-ball, right?

19 A. Uh.

20 Q. At once.

21 A. Yes.

22 Q. And you certainly never bought one of those from Mr. --
23 from Dazz, did you?

24 A. No.

25 Q. You're sure of that?

1 A. No.

2 Q. Do you recall yesterday saying that you bought anywhere
3 from a dime up to an eight-ball from Mr. -- from Dazz? I'll
4 call him Dazz so there's no confusion.

5 A. Yes.

6 Q. You recall saying that yesterday?

7 A. Yes.

8 Q. But having thought about it overnight, you realized it
9 was wrong?

10 A. No.

11 Q. Well, why did you just tell us that the largest amount
12 you ever bought from Mr. -- Dazz, a couple minutes ago, was a
13 dime?

14 A. Because they were dimes. It wasn't a solid piece. It
15 was dimes.

16 Q. Okay. But yesterday you said you bought eight-balls from
17 him, up to an eight-ball, right?

18 A. In dime form.

19 Q. That's not what you said yesterday, is it? You said an
20 eight-ball.

21 A. It still adds up to an eight-ball, even in dime form.

22 Q. Well, yesterday we asked you how big an eight-ball -- how
23 much did an eight-ball weigh and you didn't know, did you?

24 A. No, I didn't.

25 Q. How many dimes in an eight-ball?

1 A. Twenty.

2 MR. ZUCKER: Court's indulgence.

3 BY MR. ZUCKER:

4 Q. About 20, you think?

5 MR. LEON: Twenty what?

6 BY MR. ZUCKER:

7 Q. Twenty dimes in an eight-ball?

8 A. Yes.

9 Q. That's what you just said, right?

10 A. Yes.

11 Q. Okay. Have you ever bought an eight-ball and cut it up
12 into dimes?

13 A. Yes.

14 Q. And you got about 20?

15 A. Twenty, 30.

16 Q. Okay. You're the same Gail Parson that testified --
17 well, you saw the transcript Mr. Balarezo showed you -- on
18 June 14th, 2006. May I approach, Judge?

19 THE COURT: Yes.

20 BY MR. ZUCKER:

21 Q. I'm using Balarezo 16.

22 THE COURT: What 16?

23 MR. ZUCKER: Balarezo 16.

24 THE COURT: There is no Balarezo 16.

25 MR. ZUCKER: Sorry. Okay. I plead guilty. Mr. Samuels,

EXHIBIT B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
Plaintiff, : Docket No. CR 05-100
 :
v. :
 :
ANTWUAN BALL, DAVID WILSON, : Washington, DC
GREGORY BELL, DESMOND :
THURSTON, JOSEPH JONES, and : March 22, 2007
DOMINIC SAMUELS, : 9:20 a.m.
 :
Defendants. :
 :
 :
 :

VOLUME 22 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
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Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
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what he was going to charge you, in front of you, did he?

A. No.

Q. Okay. And you gave the money, and Dazz, from what you could see, put the money in his pocket or did what he wanted with it?

A. I mean, if he was out -- if I wanted a \$100 worth, he would give me a \$100 worth of crack. If I wanted \$200 he would give me \$200 worth, you know, whatever I wanted.

Q. Right. But he wasn't part of a group coming to deal with you; it was Dazz and you or Dazz, Gail and you, right?

A. On the most part, yes.

Q. Okay. And from what you could observe, he didn't share -- he didn't have to consult with anybody else about setting prices, right?

MR. LEON: Objection, form.

THE WITNESS: I don't know.

THE COURT: Hold on a second. When there's an objection, let me hear it.

MR. LEON: Objection, form, speculation.

BY MR. ZUCKER:

Q. From what you observed?

THE COURT: All right.

THE WITNESS: I don't know.

BY MR. ZUCKER:

Q. And when you dealt, you dealt with a couple other people

there, right?

A. Yes.

Q. And when you dealt with them, you gave them the money or gave the money to Gail and you got the drugs from them, right?

A. Yes.

Q. And again, there was no one else that they had to go and consult with, right? You dealt with the individual sellers?

A. I don't know.

Q. Well, from what you observed?

A. I wasn't observing. I just got it and went to the back room.

Q. Okay. Now, Dazz never said to you, "you have to buy from me" did he?

A. He had suggested for my safety that I buy from him.

Q. Okay. For your safety?

A. Yeah. Because everybody wasn't on the up and up.

Q. And that's how your relationship with Dazz began, was as buyer and seller, right, of crack cocaine?

A. Basically.

Q. Okay. But over the course of time, it developed and became a little closer and a little more -- there were other contacts; is that fair to say?

A. Like what?

Q. Well, like you told us that he will come to your house, right?

EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
Plaintiff, : Docket No. CR 05-100
 :
v. :
 :
ANTWUAN BALL, DAVID WILSON, : Washington, DC
GREGORY BELL, DESMOND :
THURSTON, JOSEPH JONES, and : May 7, 2007
DOMINIC SAMUELS, : 9:20 a.m.
 :
Defendants. :
 :
 :
 :

VOLUME 46 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

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1 A. Yes.

2 Q. When you got out of jail, did you start selling drugs
3 again?

4 A. Yes.

5 Q. And where did you go?

6 A. We was on the -- they was on the ho stroll, on the
7 Savannah side. They was calling it the ho stroll.

8 Q. Well, was this in Congress Park?

9 A. Yeah, it was in Congress Park.

10 Q. Okay. And you said, "they were." Who were you referring
11 to when you said, "they were"?

12 A. All the homies. Everybody was like from the alley to the
13 ho stroll there.

14 Q. And who were the homies?

15 A. Everybody around the way, Twan, Jo-Jo -- Twan didn't
16 really hang with us down there, but it was like mostly Wop and
17 us and all of us, like all the ones that was young, like teenage
18 and stuff like that.

19 Q. And who were those people?

20 A. Like me, Black, Tweety, Bughead, Dazz, Wop, Drano, Munya,
21 Dazz, Keith B, Kevin B.

22 MS. PETALAS: Court's indulgence.

23 Ms. Romero, if I could show what's in evidence as
24 Government's Exhibit 100.1.

25 BY MS. PETALAS:

Q. Do you recognize that? Can you see that, Mr. Kelliebrew, up on your screen?

A. Yes.

Q. Do you recognize that?

A. Yes.

Q. And what is that?

THE COURT: Pull that microphone as close to you as you can while you're leaning.

THE WITNESS: Yes.

BY MS. PETALAS:

Q. And what is that?

A. Congress Park.

Q. And when you -- well, let me take it back.

When you were 14, 15 and 16 selling in Congress Park, where primarily would you sell in Congress Park at that time?

A. We was like in the alley, we used to be -- in Boy-Boy alley. And then when I came home, like I said, we was on the Savannah Side -- Savannah Street.

Q. Well, hold on a second --

MS. PETALAS: May I approach, Your Honor?

THE COURT: Yes

BY MS. PETALAS:

Q. I'm going to hand you -- there's a pen up there. If you could take that pen and make sure that there's no ink and just point -- if you point on the screen. And right now I want you

to actually point, when you said "Boy-Boy's alley," where were you talking about?

A. (Indicating.)

Q. And for the record, you put some red arrows in the alley that kind of runs just underneath Savannah Street, in between Savannah Street and Congress Street; is that correct?

A. Uh-huh. Yes, ma'am.

Q. Okay. You talked about when you got out of jail on February 10th, when you turned 17, where then did you go? Where did you sell your drugs?

A. Right there in this alley (indicating), from this alley to the corner to the corner.

Q. And was there anywhere else where you would sell drugs?

A. Well, we float around the whole neighborhood selling drugs, but we was posted up right there, like everybody be posted up right there.

Q. Okay. And are you familiar with The Circle?

A. Yes.

Q. And where is The Circle?

A. (Indicating.)

Q. And for the record, you put an arrow down below the "P-L" in "13th Place"; is that correct?

A. Yes.

Q. And did you ever sell in The Circle?

A. Yes.

Q. And did other people ever sell in The Circle?

A. Yes.

Q. And when did you sell in The Circle?

Well, let me stop. You talked about posting up. Did you ever post up at The Circle?

A. Yes.

Q. And when did you start posting up at The Circle?

A. Really, like towards the end of the 10th Place beef.

Q. Okay. And you talked about -- named some people, named -- talked about Antwuan. Do you see Antwuan here in the courtroom here today?

If you could just stand up -- just stand up and point to where he is or an article of clothing he's wearing.

A. Right there, with the pink shirt on, with the dreads.

MS. PETALAS: Your Honor, may the record reflect an in-court identification of Antwuan Ball?

MR. CARNEY: No objection.

THE COURT: Request is granted.

BY MS. PETALAS:

Q. You also mentioned an individual, Boy-Boy. Do you see Boy-Boy in the courtroom today?

Again, if you could stand up and look around.

A. Yes. In the gray shirt and black tile.

MS. PETALAS: Your Honor, may the record reflect an in-court identification of Boy-Boy?

THE COURT: Any objection?

MR. BEANE: No objection, Your Honor.

THE COURT: The request is granted.

BY MS. PETALAS:

Q. You also mentioned an individual named Wop. Do you see Wop in the courtroom today?

A. Yes.

Q. Would you please identify where Wop is and an article of clothing.

A. White shirt, colorful tie.

MS. PETALAS: Your Honor, may the record reflect an in-court identification of David Wilson?

MS. WICKS: No objection.

THE COURT: Request is granted.

BY MS. PETALAS:

Q. You also indicated an individual named Dazz. Do you see Dazz in the courtroom today?

A. Yes.

Q. Could you please identify Dazz by where he's sitting and an article of clothing.

A. Blue shirt, black glasses. I can't see the tie.

MS. PETALAS: Your Honor, may the record reflect an in-court identification of Desmond Thurston?

MR. ZUCKER: No objection.

THE COURT: Request is granted.

BY MS. PETALAS:

Q. You also mentioned an individual, Jo-Jo. Do you see Jo-Jo in the courtroom today?

A. Yes.

Q. Please identify him by where he's sitting -- article of clothing.

A. Tan coat, black shirt.

MS. PETALAS: May the record reflect an in-court identification of Mr. Jones?

MR. MARTIN: We'll stipulate.

THE COURT: The request is granted.

BY MS. PETALAS:

Q. Finally, you mentioned an individual named Don. Do you see an individual named Don in the court today?

A. Yes.

Q. Would you please identify an article of clothing and where he's sitting.

A. White shirt and gold tie.

MS. PETALAS: Your Honor, at this point -- may the record reflect an in-court identification of Dominic Samuels?

THE COURT: Any objection?

MR. PURPURA: Your Honor, I have no objection. I just don't think he's been identified through the testimony, but no objection to the identification.

THE COURT: Request is granted.

BY MS. PETALAS:

Q. I believe you mentioned when you first started cooperating, you were cooperating against Don on the Black murder; is that correct?

A. Yes.

Q. Now, when you first get out of jail and you come back to Congress Park, who do you get your drugs from at that point?

A. When? After when I turned -- are you talking about after the 14-month bit?

Q. Yes.

A. Who was I getting my drugs from after that?

Q. Yes.

A. Anybody. Burke, Twan, Wop, anybody I could get coke from, really. You know what I'm saying? But that was the main people in the hood.

Q. You said anybody you could get coke from. What was the last thing you said? I didn't hear your last comment.

A. Basically, anybody I could get coke from in the hood, and that fall under Boy-Boy, Twan, Burke, Wop -- let me see.

And anybody else like amongst us I could get wholesale from if I can have it. If I was messed up and I needed wholesale, that would come from anybody.

Q. Okay. And let's talk about that. What are "wholesales"?

A. It's when you double your money. I give you 50 dollars, you give me ten dimes.

1 Q. And you say you double your money. How much --
2 generally, when you say "wholesales," what amount of money are
3 you spending?

4 A. Like maybe 50, 70, a hundred. If you have more than a
5 hundred, you buy you an eight-ball.

6 Q. And when you say "wholesales," is this, then, already cut
7 up in dime bags?

8 A. Yes.

9 Q. And if you spend -- if you buy a \$50 wholesale, how much
0 cocaine do you get?

1 A. Ten dimes. A hundred dollars worth of crack.

2 Q. And did you ever sell wholesales?

3 A. Yes.

4 Q. And who -- you talked about when you were broke, you
5 would get wholesales from anybody. What do you mean by that?

6 A. Just whoever had it. You run through the hood and be
7 like, "Let me get a wholesale," from anybody, like -- if they
8 had it, they'll sell you. If they didn't, they wouldn't serve
9 you. Or you had your petty ones that wouldn't sell you and they
0 had it.

1 Q. And when you said you served wholesales, who would you
2 serve wholesales to?

3 A. Vice versa. Everybody in the hood. I mean, I got to
4 name names?

5 Q. Yes.

A. Okay. Dazz, Phil, Wop, Drano, Tweety, Don, DC, Jo-Jo, Bird. Everybody, man.

Q. And would you sell -- did you sell wholesales to users or was it other dealers?

A. Just other dealers. A fiend couldn't get no wholesale.

Q. And you said -- well you said a "fiend," what's a "fiend"?

A. A crackhead.

Q. You talk about -- before you talked about posting up. Would you sell with other -- these other individuals all at the same time?

A. Um-hmm.

Q. You have to answer yes.

A. Yes, yes.

THE COURT: We've actually reached the point I wanted to take our mid-morning break. Did you want to conclude this line with one or two more questions?

MS. PETALAS: No, this is fine.

THE COURT: Ladies and gentlemen, we'll take our mid-morning break. It's 11:15. Please come back at 11:30.

Please remember not to talk about the case and take your notes back with you into the jury room. We'll see you in 15 minutes.

(Jury out at 11:15 a.m.)

THE COURT: Mr. Kelliebrew, you may take a break as well.

1 Please be back in your seat, ready to resume your testimony
2 promptly at 11:30.

3 THE WITNESS: Yes, sir.

4 THE COURT: All right.

5 (Thereupon, a break was had from 11:15 a.m. until
6 11:32 a.m.)

7 THE COURT: Is the other witness here?

8 MR. LEON: Ms. Ryals is here now. Shall we --

9 THE COURT: Let's bring her in.

0 MR. LEON: Bring her in.

1 MR. TABACKMAN: You want to interrupt Mr. Kelliebrew now
2 or after lunch --

3 THE COURT: Say that again.

4 MR. TABACKMAN: Are we going to interrupt Mr. Kelliebrew
5 now?

6 THE COURT: Yes. I should ask you, Mr. Tabackman, are you
7 ready for it?

8 MR. TABACKMAN: My preference, since I've been thinking
9 about him, would be to do her immediately after the lunch break,
0 but if the Court wants to do it now, that's fine.

1 THE COURT: All right. Let's bring the jury in.

2 (Jury in at 11:34 a.m.)

3 THE COURT: You all can be seated, if you like.

4 Good morning again, ladies and gentlemen.

5 THE JURY PANEL: Good morning.

THE COURT: Welcome back. We're going to recall Thursday's witness to the stand and complete that testimony and resume with the other witness from the morning afterwards.

Counsel.

MR. TABACKMAN: Thank you, Your Honor.

CROSS-EXAMINATION OF TOYA RYALS

BY MR. TABACKMAN:

Q. Good morning, Ms. Ryals.

Just to introduce myself, I'm Steve Tabackman and I'm Mr. Ball's lawyer. How are you?

A. Fine.

Q. Good. On Thursday afternoon, I think we were talking about -- just so we can all get reoriented -- are you okay with the mic?

A. Yes.

Q. If you just keep it down near your mouth, I think everything will be okay, and I won't be very long, I promise.

We were talking about how long you had lived in Congress Park and then how long you had known Mr. Ball. Do you remember those questions, generally?

A. Yes.

Q. Okay. Now, you said that the year that Black was shot, you said you were about 14 or 15; is that right?

A. Yes.

Q. It was 2002?

EXHIBIT D

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
Plaintiff, : Docket No. CR 05-100
 :
v. :
 :
ANTWUAN BALL, DAVID WILSON, : Washington, DC
GREGORY BELL, DESMOND :
THURSTON, JOSEPH JONES, and : April 18, 2007
DOMINIC SAMUELS, : 9:16 a.m.
 :
Defendants. :
 :
 :
 :

VOLUME 36 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
Gilberto Guerrero, Assistant
United States Attorney
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For Defendant
Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 Q. And how do you know Dominic Samuels?

2 A. Grew up with him.

3 Q. Did you ever see Dominic Samuels selling crack cocaine?

4 MR. BALAREZO: Objection, leading.

5 THE COURT: I'll allow it.

6 THE WITNESS: Yes.

7 BY MS. PETALAS:

8 Q. And where would you see Dominic Samuels selling crack
9 cocaine?

10 A. In the circle.

11 Q. I'm sorry. Where?

12 A. In the circle.

13 Q. Anywhere else besides the circle?

14 A. In the Lincoln.

15 Q. Anywhere else?

16 A. Naw.

17 Q. You said you grew up with Dominic Samuels. Did you
18 ever -- did you ever see who he hung out with or who his friends
19 were?

20 A. Yes.

21 Q. And who were some of his friends?

22 A. DC and EB.

23 Q. And do you know, looking at this picture, approximately
24 when it was taken?

25 A. Naw.

1 Q. Mr. Barnett, when you were selling in Congress Park, did
2 ever hear the term "doors"? The term "doors"?

3 A. Yes.

4 Q. And what is "doors"?

5 A. It was a game we was playing to get the sales when it was
6 a lot of us out there, like *uno* and *dos*. If a crackhead walked
7 up and we like 10 deep out there, the first two get the sale.
8 The first one who call "*uno*" get the majority of the sale. Who
9 call "doors" get the remaining of the sale.

10 Q. And where are some of the places that you would play this
11 game?

12 A. In the circle, in the Lincoln, in the alley.

13 Q. And why is it that you guys would play this game?

14 A. So everybody can get some money.

15 MR. BALAREZO: Objection, Your Honor. I think he can only
16 testify as to why he played the game.

17 THE COURT: Do you want to rephrase the question.

18 BY MS. PETALAS:

19 Q. In your mind, why did you play the game?

20 A. So that I can get some money.

21 Q. Well, if -- were there times when you called "*uno*" and
22 somebody else called "doors"?

23 A. Yes.

24 Q. And why is it then that you would let that person have
25 part of the sale?

1 A. Because the game was -- the game was already established.
2 Everybody respected the game.

3 Q. And did you ever play the game doors with Don?

4 A. Yes.

5 Q. How about DC?

6 A. Yes.

7 Q. How about Munya?

8 A. Yes.

9 Q. How about -- well, who else would you play the game doors
10 with?

11 A. Dion, Jo-Jo, JT, Santu, Dazz, Phil.

12 Q. You mentioned Dazz a couple times. Let me interrupt you.

13 MR. ZUCKER: Objection.

14 BY MS. PETALAS:

15 Q. You mentioned Dazz a couple --

16 MR. ZUCKER: Misstates the evidence. This is the first
17 mention of Dazz.

18 MS. PETALAS: Actually, I don't believe that's true, but
19 I'll move on, Your Honor.

20 BY MS. PETALAS:

21 Q. You just mentioned Dazz. Do you see Dazz in the
22 courtroom today?

23 A. Yes.

24 Q. Would you please identify him by where he's sitting.

25 A. To the left of me, with a yellow shirt on.

1 MS. PETALAS: Your Honor, may the record reflect an
2 in-court identification of Desmond Thurston? I think he's the
3 only one wearing --

4 MR. ZUCKER: I don't see any yellow shirt. On the other
5 hand, I think --

6 Mr. Thurston, would you stand up, please.

7 THE WITNESS: Yeah, that's Dazz right there.

8 MR. ZUCKER: Thank you. Stipulate to the identification.

9 BY MS. PETALAS:

10 Q. You mentioned Dazz. How often -- you said you played
11 doors with Dazz?

12 A. Yes.

13 Q. And where would you play doors with Dazz?

14 A. In the circle, in the Lincoln, in the alley.

15 Q. How about Wop? Did you ever play doors with Wop?

16 A. No.

17 Q. Would you ever be playing the game doors when Wop was
18 around?

19 A. Yes.

20 Q. And why was it that you didn't play doors with Wop?

21 MS. WICKS: Objection.

22 THE COURT: Basis?

23 MS. WICKS: Foundation.

24 THE COURT: Overruled.

25 BY MS. PETALAS:

1 Q. You can answer the question.

2 A. I mean, because Wop had his sales, his customers that
3 didn't care for no games or none of that. They just came to
4 Wop.

5 Q. And how long have you known Wop?

6 A. I grew up with him.

7 Q. How often -- once you started selling in Congress Park,
8 how long after that did you start playing the game doors?

9 A. I think that uno and doors game came like 2000, 2001.

10 Q. And how often per week would you play doors?

11 A. Every day.

12 Q. You mentioned Wop had his own customers. Were there ever
13 times that you saw Wop help other people get some money for
14 cocaine sales?

15 A. Yes.

16 MS. WICKS: Objection. It sounded like a very vague
17 question.

18 THE COURT: Did you understand the question?

19 THE WITNESS: Yes.

20 THE COURT: I'll let him answer it.

21 BY MS. PETALAS:

22 Q. You said yes. What do you mean by that? I mean,
23 describe that, when you say Wop help others get --

24 A. Meaning if I had some garbage coke or if I needed some
25 money --

1 MS. WICKS: Objection as to speculation at this point,
2 Your Honor.

3 THE COURT: He said, "If I had some garbage coke"?

4 MS. WICKS: Yes.

5 THE COURT: Overruled.

6 BY MS. PETALAS:

7 Q. Continue.

8 A. When I had garbage coke or if I needed some money or
9 whatever and the sales come and they come to Wop, I tell Wop,
10 "Man, let me get half of that sale." He give it to me.

11 Q. And did you ever see him do this for other people?

12 A. Yes.

13 Q. Who were some on the other people you saw him do this to?

14 A. Dazz, Phil, Munya.

15 Q. You said Phil. Who's Phil?

16 A. Dazz little brother.

17 Q. Did you ever see Dazz selling crack cocaine?

18 A. Yes.

19 Q. And where would you see him sell crack cocaine?

20 A. In the Lincoln, 14th Place, in the alley, the circle,
21 Savannah.

22 Q. Did you ever see Phil sell something that was not crack
23 cocaine?

24 A. Yes.

25 MR. ZUCKER: Objection, foundation.

1 THE COURT: Establish foundation.

2 BY MS. PETALAS:

3 Q. Well, did you ever talk to Phil -- how do you know it was
4 not crack cocaine?

5 A. I used to be with Phil when he used to be cooking up fake
6 cocaine.

7 Q. And where did this occur?

8 A. In Kena house.

9 Q. And who is Kena?

10 A. Crackhead.

11 Q. You said her house. Where did she live?

12 A. She lived in the back of the circle.

13 Q. If I could ask you to just clear the screen again, Mr.
14 Barnett.

15 MR. ZUCKER: Can I object and approach? I would object
16 and rather than explain, I would ask to approach, if you wish.

17 THE COURT: I couldn't hear everything that you said, but
18 did you ask to approach?

19 MR. ZUCKER: I am objecting.

20 THE COURT: Yeah. Come on up.

21 (Following sidebar discussion had on the record:)

22 MR. ZUCKER: I'm not sure if it sounds like she's going to
23 elicit stuff that's not in furtherance of the conspiracy. It's
24 an individual act by Phil, selling burn bags. That's not part of
25 the conspiracy and it's not charged to anybody else.

1 MS. PETALAS: Your Honor, we have direct testimony it's
2 part of the conspiracy. One of the purchases from Sandra White
3 was a purchase when she went to Wop and Wop said, "Get from my
4 man," which was Phil, and then Phil actually sold her fake
5 cocaine.

6 THE COURT: Okay. I'll allow it. The next question, as I
7 anticipate, is "Show me where that is."

8 MS. PETALAS: That's correct.

9 MR. ZUCKER: I assumed that. And I wasn't objecting to
10 that question per se. It was the -- I won't repeat myself.

11 THE COURT: Overruled.

12 (Sidebar discussion concluded.)

13 BY MS. PETALAS:

14 Q. Mr. Barnett, I'm showing you what's in evidence as
15 Government's Exhibit 101.1. Do you recognize that?

16 A. Yes.

17 Q. And what is that?

18 A. The circle and the Lincoln.

19 Q. And you said that Kena -- can you show us on the map, if
20 you can use your pen again, where Kena lived?

21 A. (Indicating.)

22 Q. And for the record, you placed a red dot and an arrow on
23 a building that's just kind of at the bottom and to the left of
24 the backwards L; is that correct?

25 A. Yes.

1 Q. And tell us about -- you were talking about a time that
2 you saw Phil cooking up fake cocaine. Tell us about that.

3 A. He told me to ride with him up the store to get
4 something, so I rode with him. And he told me he ready to cook
5 up, so we went to Kena house and smoked some weed and he
6 started -- after we finished -- well, while we was smoking weed,
7 he just started cooking the drugs up. But as he was cooking it,
8 I was like, "When you going to put the coke in there?" And he
9 ain't never put it in there.

10 Q. And who was in Kena's house at the time?

11 A. Just me and him.

12 Q. And how was it that you were able to get into Kena's
13 house if she wasn't there?

14 A. She let us in and left out.

15 Q. Had you been in Kena's house before?

16 A. Yes.

17 Q. How often?

18 A. Every time it rained.

19 Q. You said every time it rained?

20 A. Yes.

21 Q. Why -- what's the connection? What do you mean, "every
22 time it rained"?

23 A. When it rained, I didn't want to be standing outside.
24 Going in. I would sell my drugs out of her house.

25 Q. Did you ever see anybody else selling drugs out of her

1 house?

2 A. Yes.

3 Q. Who would you see -- who did you see sell drugs out of
4 Kena house?

5 A. JT, Baby Kairi.

6 Q. Did you ever cut up crack cocaine in Kena's house?

7 A. Yes.

8 Q. How often?

9 A. Probably once or twice.

10 Q. Did you ever see anybody else cut up crack cocaine in
11 Kena's house?

12 A. No.

13 Q. Did you ever see Boy-Boy with Kena?

14 A. Yes.

15 Q. Where did you -- how often would you see Boy-Boy with
16 Kena?

17 A. Very rarely, but he used to be there all the time, in her
18 house.

19 MR. BEANE: Objection, Your Honor.

20 BY MS. PETALAS:

21 Q. You said he --

22 MR. BEANE: Foundation. He said that he rarely saw him,
23 but how would he know?

24 THE COURT: Overruled.

25 BY MS. PETALAS:

EXHIBIT E

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : May 17, 2007
 DOMINIC SAMUELS, : 9:15 a.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 52 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
Gilberto Guerrero, Assistant
United States Attorney
555 4th Street
Washington, DC 20001
202.305.0174

For Defendant Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 A. It was close. I mean, right outside of it, basically, a
2 couple of feet away.

3 Q. What neighborhoods would you -- you said not Congress
4 Park. What neighborhoods would you commit your robberies in?

5 A. Good Hope Road, Southwest, Northwest.

6 Q. And when you did these -- when you did these robberies,
7 did you do them alone or with other people?

8 A. Sometimes with other people, mostly by myself.

9 Q. And when you did these robberies, did you sometimes carry
10 a weapon?

11 A. Yes.

12 Q. Did you always carry a weapon?

13 A. Yes.

14 Q. What kind of weapon?

15 A. 9 millimeters, .45s.

16 Q. Those would be pistols?

17 A. Yes. .38s, .357s, whatever I can get my hand on.

18 Q. And you said most of the time you did them by yourself,
19 but some of the time you did them with others. During those
20 other -- some of the times you did do robberies with other
21 people, who were those other people?

22 A. I'd say Snapper, Nathaniel Voss, an old guy named Joe.

23 Q. Okay. Now again, still focusing 1990 to 1996, that
24 period of time, you mentioned The Circle and sometimes you
25 would -- or you said -- I think more than sometimes, you would

1 go to The Circle, correct?

2 A. Yes.

3 Q. I believe you said in 1990 you were about 11 years old,
4 so 1996, you would be about 17, give or take?

5 A. Yes.

6 Q. Okay. During that period of time when you would go to
7 The Circle, who else would you see at The Circle?

8 A. Cool Wop, Antwuan, Dazz, Boy-Boy, Santuce, Jazz, Jo-Jo.

9 Q. Anyone else you can think of right now?

10 A. Little Phil.

11 Q. Okay. You've mentioned some names. Let's just try to go
12 through them. The first name you mentioned was Antwuan, I
13 believe, correct?

14 A. Yes.

15 Q. Is Antwuan older or younger than you?

16 A. He's older than me.

17 Q. Do you know how much?

18 A. I don't know how much. I think in his 30s, though, about
19 the same age as my sister.

20 Q. Do you see Antwuan in the courtroom here today?

21 A. Yes. It's the guy over there with the dreads in his
22 hair.

23 Q. Can you point out his -- what kind of clothing he has on.

24 A. Him, right there with the dreads (indicating).

25 Q. And can you --

1 A. White shirt and tie.

2 Q. What color tie?

3 A. I can't really see it.

4 Q. Who is he sitting next to?

5 A. Cool Wop.

6 MR. LEON: Your Honor, may the record reflect the in-court
7 identification of Mr. Ball?

8 MR. CARNEY: No objection, Your Honor.

9 THE COURT: The request is granted.

10 BY MR. LEON:

11 Q. When you saw Antwuan in The Circle during that period of
12 time, between the time you were 11 and 17, who, if anyone, would
13 you see Antwuan with?

14 A. Tommy Murphy, his brother Kairi, before he got killed,
15 Jo-Jo, Cool Wop, Dazz, Santuce, Jazz. Same names.

16 Q. And you mentioned Jo-Jo. Do you see Jo-Jo here in the
17 courtroom today?

18 A. Yes. It's the guy back there with the glasses on
19 (indicating).

20 Q. What color clothing is he wearing?

21 A. Looks like purple shirt, looks like. My eyes bad.

22 MR. MARTIN: No objection, Your Honor.

23 MR. LEON: May the record reflect an in-court
24 identification of Mr. Joseph Jones?

25 THE COURT: Request is granted.

1 BY MR. LEON:

2 Q. And is Joseph Jones, to your knowledge, the same age,
3 older or younger than you?

4 A. He's older than me.

5 Q. Now, when you saw Antwuan Ball hanging out with Jo-Jo and
6 the other people you mentioned, what, if anything, did you see
7 Antwuan do?

8 A. He used to be out there --

9 Q. In The Circle, I'm talking about.

10 A. In The Circle?

11 Q. Yes.

12 A. Sell drugs.

13 Q. What kind of drugs?

14 A. Crack, weed, Ecstasy.

15 Q. What impression, if any, did you get as to Antwuan Ball's
16 status in the neighborhood at that time?

17 MR. BALAREZO: Objection.

18 MR. MARTIN: Objection.

19 THE COURT: Sustained.

20 BY MR. LEON:

21 Q. Did you -- based on your observations, tell us what you
22 saw Antwuan doing in The Circle, other than selling drugs?

23 A. He was running house, you know. He ran Congress Park.

24 Q. What do you mean by that?

25 A. Basically, whatever a man -- a person -- whatever he

1 wanted somebody to do, they'd do. If something was going down,
2 they'd go to Antwuan.

3 MR. CARNEY: Objection, Your Honor, 602.

4 THE COURT: Why don't you establish foundation.

5 BY MR. LEON:

6 Q. Okay. You told us "running house." First of all, in
7 your own words, what does that mean?

8 A. Basically, running the show. I mean, everybody looked up
9 to him around there.

10 Q. Okay. And when you say "everybody looked up to him
11 around there," is that based on your own observations?

12 A. Yes, from what I could see.

13 Q. From what you could see, tell us what you mean when you
14 said everyone looked up to Antwuan.

15 A. They looked up to him. He was older. I guess he was
16 putting in most of the work around there.

17 MS. WICKS: Objection.

18 MR. ZUCKER: Objection.

19 THE COURT: Sustained.

20 BY MR. LEON:

21 Q. Don't guess. Just tell us what you saw, how you saw
22 Antwuan interact with others and others interact with Antwuan.
23 You can tell us about that.

24 A. From what I could see, he -- at that time, he basically
25 man. He was in charge. I mean, the things he used to say to

EXHIBIT F

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
Plaintiff, : Docket No. CR 05-100
 :
v. :
 :
ANTWUAN BALL, DAVID WILSON, : Washington, DC
GREGORY BELL, DESMOND :
THURSTON, JOSEPH JONES, and : April 2, 2007
DOMINIC SAMUELS, : 1:55 p.m.
 :
Defendants. :
 :
 :
 :

VOLUME 27 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
Gilberto Guerrero, Assistant
United States Attorney
555 4th Street
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For Defendant
Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 A. Ten dime sales?

2 Q. Yeah.

3 A. It break down four ways.

4 Q. And first of all, did you personally participate in this
5 unos, dose, tres system?

6 A. Yes, sir.

7 Q. How many times would you say you personally participated
8 in this system?

9 A. So many times I can't recount.

10 Q. Who did you share sales with?

11 A. Wop, Dazz, Phil, Drano, Tweety, Ju-Ju, Jo-Jo, LT
12 Terrence, Cat Eye Tony.

13 Q. I think you indicated that this system was done for
14 safety reasons?

15 MR. ZUCKER: Objection.

16 THE WITNESS: Yes, sir.

17 BY MR. LEON:

18 Q. Explain what you mean by that.

19 A. Like I was saying earlier, so you won't go out. Meatball
20 and Head got shot in drive-byes, so we wouldn't go out in the
21 front line to try to make a purchase and a car come by and we
22 get shot up; whereas in the alley in the cut we could see what's
23 going on down on the street.

24 Q. Through the uno, dos system, how would people actually go
25 out to make the sale itself?

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

NTWUAN BALL, DAVID WILSON,
REGORY BELL, DESMOND
HURSTON, JOSEPH JONES, and
DOMINIC SAMUELS,

Defendants.

:
:
: Docket No. CR 05-100
:
:
:
: Washington, DC
:
: April 4, 2007
: 9:36 a.m.
:
:
:
:
:

VOLUME 29 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

for the United States:

UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
Gilberto Guerrero, Assistant
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for Defendant
Ntwuan Ball:

CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 A. (Indicating.)

2 Q. For the record, you tapped on two different areas. One
3 appears to be a little underneath and a little to the right of
4 the circle off of 13th Place; is that right? Which is also
5 behind the building you previously identified as the Lincoln?

6 A. Yes, sir.

7 Q. Okay. And the other arrow you indicated is more in the
8 upper right hand portion of the map behind the area that's
9 labeled Savannah Place; is that correct?

10 A. Yes, sir.

11 Q. How many times would you say you stashed guns in those
12 locations during 1996 to 2001?

13 A. I can't recount.

14 Q. Why?

15 A. It was a lot of times.

16 Q. And you previously said that -- made a reference to
17 friends. When you stashed these guns, would any of your
18 friends -- first just yes or no, would any of your friend know
19 that you were stashing the guns?

20 A. Yes.

21 Q. All the time or sometimes?

22 A. Sometimes.

23 Q. Okay. And during the times that your friend did know
24 that you were stashing the guns there, how would they know?

25 A. Me telling them or we together.

1 Q. Okay. Who are the friends that you -- who knew that you
2 stashed guns there?

3 A. The guys that I was hanging with.

4 Q. And just for the record, we need you to say who.

5 A. Wop, Dazz, LT, Drano, Terrance, Taneil.

6 Q. Can you think of anyone else right now?

7 A. A guy named Tweety.

8 Q. Tweety?

9 A. Tweety.

10 Q. Anybody else you can think of right now?

11 A. No, but Tweety only for a certain portion because he had
12 got killed.

13 Q. When do you remember Tweety getting killed?

14 A. Sometime like '97.

15 Q. First just yes or no, did you ever know Wop to stash guns
16 in the Congress Park area? And when I say that, let me be more
17 clear. You mentioned Pinky's apartment. I'm talking about
18 outside, like the woods or outside, like you said you did.

19 A. Yes.

20 Q. Okay. Where?

21 A. Like under car tires and stuff like that when we outside.

22 Q. Okay. I believe you also said you -- you yourself
23 stashed guns under car tires?

24 A. Yes, sir.

25 Q. First, let's focus on you. Why would you put guns under

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

Cr. No. 05-100-13 (RWR)

DESMOND THURSTON

Defendant.

**DEFENDANT'S REPLY MEMORANDUM
IN AID OF SENTENCING**

**SENTENCING THURSTON TO A GUIDELINE RANGE
OF 324-405 MONTHS BASED ON AN ACQUITTED
CONSPIRACY IS CONSTITUTIONALLY REPUGNANT**

The Sixth Amendment guarantees a sentence that is wholly authorized by the jury's verdict. *See, Cunningham v. California*, 127 S.Ct. 856, 869 (2007) ("If the jury's verdict alone does not authorize the sentence ... the Sixth Amendment requirement is not satisfied."); *Blakely v. Washington*, 542 US 296, 306 (2004) (*Apprendi* "ensur[es] that the judge's authority to sentence derives wholly from the jury's verdict"); *Apprendi v. New Jersey*, 530 US 466, 483 n.10 ("The judge's role in sentencing is constrained at its outer limits by the facts alleged in the indictment and found by the jury.") Use of the conspiracy for which Mr. Thurston was acquitted to estimate drug quantity attributable to him or to otherwise calculate the guideline range violates this guaranty. When a court uses acquitted crimes to calculate a guideline sentence, the court "is expressly considering facts that the jury verdict not only failed to authorize; it considers facts of which the jury expressly

disapproved,” and “they are facts comprising different crimes, each in a different count.”
United States v. Pimental, 367 F.Supp 2d 143, 152-23 (D.Mass. 2005)¹.

In using acquitted conduct to calculate the guideline range, the judge necessarily finds facts beyond the elements of the offense of conviction and “[w]hether the judicially determined fact *require* a sentence or mere *allow* it, the verdict alone does not authorize the sentence.” *Blakely*, 542 US at 305 n.8. (Emphasis in the original). See also *Cunningham*, 127 S.Ct. at 863-64 (“under the Sixth Amendment, any fact that exposes a defendant to a greater *potential* sentence must be found by a jury, not a judge.”)(emphasis added). While an appellate court may presume a within Guidelines sentence to be reasonable, *Rita v. United States*, 127 S. Ct. 2456, 2462-63 (2007), a sentence may not be reasonable absent consideration of facts not found by the jury, and if so, it violates the Sixth Amendment. See, *Rita*, 127 S. Ct. at 2479-80 (Scalia J concurring)

The door remains open for a defendant to demonstrate that his sentence, whether inside or outside the advisory Guidelines range, would not have been upheld but for the existence of a fact found by the sentencing judge and not by the jury.

Id. Unless this Court can say that it would sentence Mr. Thurston to 324-405 months, absent reliance on acquitted conduct for the substantial portion of that sentence, the sentence violates the Sixth Amendment.

HEIGHTENED STANDARD OF PROOF SHOULD BE APPLIED

¹ Judge Friedman favorable cited *Pimental*, in declining to exercise its discretion under the advisory guidelines to sentence defendant for acquitted conduct. *United States v. Safavian*, 461 F.Supp. 2d 76, 83 (DDC 2006).

No case in which the DC Circuit has rejected the clear and convincing standard of proof for making factual determinations which dramatically enhance a defendant's sentence involved as great a disparity as in the instant case. The function of a standard of proof is to "instruct the factfinder concerning the degree of confidence our society thinks he should have in the correctness of factual conclusions..." *Addington v. Texas*, 441 U.S. 418, 423 (1979). The government is hard pressed to argue that the DC Circuit would rule, contrary to the Ninth Circuit, that the factfinder need not have a great deal of confidence in its factual conclusions before sentencing a defendant to an additional twenty seven to thirty years in prison.

**THE GOVERNMENT'S DRUG QUANTITY
ESTIMATE IS SPECULATIVE AND VIOLATES
THURSTON'S DUE PROCESS RIGHT**

The government claims that Capies' testimony should be credited because it is corroborated by the testimony of Jacques Powell. Reply, p. 4. Powell, like Capies, testified pursuant to a cooperation agreement, and for that reason, his bias and motivation to testify must be weighed in assessing credibility. Even if he is credited, his testimony does not corroborate Capies with respect to Thurston except in the broadest sense that both claim to have observed Thurston selling drugs.

Neither corroborates each other nor provides a reliable basis upon which to attribute a particular drug quantity to Thurston. Capies' testimony that he observed Thurston sell "just about every day" was limited to the 1992-1996 time period. See, *Def's Memo*, p. 5. Powell's testimony in which he alleges that "Dazz hustled in the circle," was limited by the government's questioning to the 1995-1997 period. Tr. 5/21/07, p. 12195.

Like Capies, Powell could not have seen Thurston selling drugs on a regular basis since he was incarcerated for a substantial portion of that period. *Def's Memo*, p. 5. Additionally, unlike Capies, who testified that during 1992-1996 Thurston sold "all on 14th Place." Tr. 3/29/07, p. 4922. Powell, however, "rarely went around 14th Place, but I probably made one or two sales on 14th Place. Just guessing, but we barely went around 14th Place." Tr. 5/21/07, p. 12214.

RELEVANT CONDUCT

The mere fact that the defendant may have engaged in other drug transactions "is not sufficient to justify treating those transactions as 'relevant conduct' for sentencing purposes." *United States v. Crockett*, 82 F.3d 722, 730 (7th Cir.1996). The requirement that "relevant conduct" must have a connection to the offense of conviction is related to the Sixth Amendment principles underlying *Booker*. *United States v. Allen*, 488 F.3d 1244, 1255 (10th Cir. 2007).

When a sentencing court considers conduct related to the offense of conviction, the objective is to determine the seriousness of the very crime found by the jury or admitted by the defendant. If the considered conduct has nothing to do with the offense of conviction, the court is effectively sentencing a defendant for a crime that was never proved to the jury, or admitted by the defendant. To allow this would empower the government to obtain punishment for any number of unrelated crimes, based on bench trial rather than jury trial. The relatedness principle thus keeps the system from straying too far beyond the Sixth Amendment line.

Id.

The government claims that what connects the testimony of Capies and others about Thurston's drug dealing, to the offenses of conviction, among other things is that Thurston used the term "doors" with others in Congress Park. There is absolutely no

evidence that either of the offenses of conviction had anything to do with “doors.” Nor does the government point to any evidence that either of the offenses of conviction shared the same supplier as any other transaction, involved the selling of wholesales, or chased possible rival dealers. See, Reply p. 6. The government has simply failed to establish sufficient relatedness to constitute relevant conduct under 1B1.3(a)(2).

CONCLUSION

Contrary to defendant’s Sixth Amendment right, the government is seeking to obtain punishment for numerous unrelated crimes, based on a bench trial rather than jury trial. Absent credible evidence regarding a specific connection to either of the offenses of conviction, the generalized testimony of drug dealing pointed out by the government does not constitute relevant conduct under the sentencing guidelines.

Respectfully submitted,

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA :

v. : Cr. No. 05-100-17 (RWR)

DESMOND THURSTON, :
also known as Dazz, :
Defendant. :

REVISED GOVERNMENT’S REPLY MEMORANDUM IN AID
OF SENTENCING FOR DESMOND THURSTON¹

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, herewith files this reply memorandum in aid of sentencing for defendant Desmond Thurston. In his memorandum in aid of sentencing, defendant Thurston makes certain legal and factual arguments which are either inaccurate as a matter of law, or fact, or both. The government therefore relies on the following points and authorities in this reply memorandum and any other points and authorities that may be cited at the sentencing hearing.

1. Citing little or no authority, Thurston argues that the position of the government (as supported by the calculations made by the United States Probation Office) that Thurston receive a sentence in between the recommended range of 324 to 405 months incarceration is “constitutionally repugnant” (Thurston Mem. at 1). Mr. Thurston is essentially asking this Court to ignore its

¹ The instant memorandum is identical to the previously-filed government’s reply memorandum in aid of sentencing for Desmond Thurston (Document #1230), except that it corrects the content of paragraph 7.a. Paragraph 7.a. of the previous filing had inadvertently described a controlled purchase other than the one at issue in this case. The instant memorandum now correctly describes the facts of Thurston’s October 17, 2000 controlled purchase to Sandra White (count 11).

obligations as set forth by the Sentencing Guidelines, Section 3553(a), and applicable case law.

Indeed, as recently as last week, the District of Columbia Court of Appeals affirmed the principle that a sentence within a properly calculated Guidelines range is entitled to a rebuttable presumption of reasonableness. *See United States v. Melvin B. Brown*, --- F.3d. ---, slip op. at 4 (No. 03-3102, Feb. 29, 2008).

2. At one point in his memorandum, Thurston goes so far as to suggest that this Court should consider the personal opinions expressed by Juror #6 in determining what the appropriate sentence should be for Mr. Thurston (Thurston Mem at 23.). While there are a number of factors a court must consider in determining the appropriate sentence to impose on a criminal defendant, one factor that is clearly irrelevant is the personal opinion of any juror. *See, e.g., United States v. Rowe*, 144 F.3d 15, 19, 24 (1st Cir. 1998); *see generally* Red Book Instruction No. 2.71. Indeed, the personal opinion of a single juror is just as irrelevant for sentencing purposes as the views of the mother of Trevon Shaw, who sat through almost every day of the trial and who has lived in Congress Park for much of her life. Similarly irrelevant are the opinions of certain witnesses who reluctantly testified at trial, and who have expressed concern for their personal safety. This is why the judicial system clearly assigns final sentencing determinations to courts, and to courts alone. It is important to stress that the government is not asking this Court to do anything which is outside of its clear authority. Instead, the government is asking that the Court follow the recommendation of the United States Probation Office, and impose a sentence within the presumptively-reasonable Guidelines range, and which is still less than the maximum sentence that it has the authority to impose.

3. Thurston also acknowledges that there is no controlling authority requiring this Court to impose the higher “clear and convincing” standard of proof to its analysis of the relevant conduct in

this case. Indeed, every case in this Circuit that has addressed this issue has applied a preponderance standard. *See, e.g., United States v. Dorcelly*, 454 F.3d 366 (D.C. Cir. 2006) (upholding a sentence of 24 months incarceration although recommended Guidelines range was 0-6 months, where the district court found by a preponderance of the evidence that the defendant was in fact involved in charged conspiracies for which he was acquitted); *United States v. Long*, 328 F.3d 655, 670-72 (D.C. Cir. 2003); *United States v. Graham*, 317 F.3d 262, 269-70 (D.C. Cir. 2003); *see also United States v. Lawson*, 494 F.3d 1046, 1057-58 (d.c. Cir. 2007) (“[W]here the court finds by a preponderance of evidence that the defendant was engaged in the conduct for which he was charged, this finding becomes a factor in determining the properly calculated Guidelines range.”) (citing cases). While the government does not agree that the clear and convincing standard is legally warranted, the government is comfortable holding the relevant conduct cited in its memorandum and in the PSI up to this higher level of scrutiny.

4. Thurston also summarily discredits all of the testimony of Bobby Capies, Cedric Conner, Gail Parson and Ed Martin, cited by the government, claiming that in each instance, the sworn accounts of these witnesses lack sufficient indicia of reliability. *See* Thurston Mem at 4-12. Thurston essentially asks this Court to dismiss their sworn accounts, out of hand, because these witnesses were drug addicts and cooperating witnesses, rather than make its own independent assessment of these witnesses’ credibility. *Gall v. United States*, No. 06-7949, 128 S. Ct. 586, 597 (2007) (“The sentencing judge sees and hears the evidence, makes credibility determinations, has full knowledge of the facts and gains insights not conveyed by the record.”)

5. Thurston also cherry-picks certain portions of the record to such an extent that it verges on being almost misleading. For example, in arguing that Ms. Parson’s testimony should not be credited because she was purportedly inconsistent in her testimony as to whether she had purchased

“an eightball” from Thurston (Thurston Mem. At 11), Thurston cites a single page of the trial transcript (page 2178), but ignores the very next two pages (during the same exact line of cross-examination) where she clearly states that she had purchased eight-ball quantities from Thurston “in dime-form” rather than as a solid piece. 3/22/07 Tr. at 2179-80. Indeed, this is not only *not* an inconsistency in her testimony, but also perfectly logical – as an addict lower down in the pecking-order, Ms. Parson was unlikely to be able to purchase eight-balls in “wholesale” form. (Relevant excerpts from Ms. Parson’s trial testimony are attached hereto as Exhibit A.) Similarly, while Thurston argues that Mr. Martin purchased crack cocaine from as many as nine different dealers in Congress Park, the only fair reading of Martin’s and Parson’s combined trial testimony is that Thurston was Martin’s primary, if not virtually exclusive, source of crack cocaine.²

6. Similarly, while Thurston argues that Capies’ testimony regarding Thurston’s routine crack cocaine dealing should be discounted, he ignores entirely the fact that Capies’ testimony is corroborated by the trial testimony of Jacques “JT” Powell. *See* Government Mem. at 16, n.10. This is surely because Mr. Powell was an extremely credible witness in his own right, and corroborated in many regards.³ Indeed, the testimony of Capies and Powell regarding how Thurston was a fixture in Congress Park selling crack cocaine during the 1990s and the years that followed is also supported by other witnesses. For example, Kairi Kelliebrew testified that in the late 1990s, Thurston was one of the regular people selling crack cocaine in Congress Park, including “the Circle” and was also one of the regular dealers who would buy, or sell, “wholesales” to other dealers in Congress Park. 5/7/07 Tr.

² At one point during cross-examination, Thurston elicited the fact that Thurston encouraged Martin to buy his crack cocaine only from him, for his own safety. 3/22/07 Tr. at 3828 (attached hereto as Exhibit B).

³ Among other things, Powell testified regarding statements made by Dominic Samuels implicating himself (Samuels) in the August 2002 murder of Jamel Sills. Samuels has recently admitted he in fact committed this murder.

at 10130-39. (Relevant portions of Mr. Kelliebrew's trial testimony are attached hereto as Exhibit C.) Witness Keith Barnett testified that he would often play "*doors*" with several other accepted drug-dealers in Congress Park, including Thurston 4/18/07 Tr. at 7551-60 (attached hereto as Exhibit D). Similarly, witness Robert Pough also testified that when he went to "the Circle" during 1996 and thereafter, Thurston was one of the regular people he would see there. 5/17/07 Tr. at 11659-63 (attached hereto as Exhibit E).

7. Thurston also argues that the relevant conduct cited by the PSI writer and the government in support of an attribution of 1.5 kilograms of crack cocaine to Thurston is improper for the additional reason that there is not sufficient proof that the relevant conduct relates to the two counts that Thurston was convicted of. Thurston Mem. at 12-15. To this end, it is first helpful to take a more careful look at these two counts:

**a. Count 11 – October 17, 2000 Controlled Purchase
(Government Exhibits 308, 308.1, 308.2, 308.2A, 308.4 and 308.8)**

Evidence of this controlled purchase came in through various witnesses, including cooperating witness Sandra White, who engaged in the controlled purchase under the supervision of the FBI.

As the testimony of Ms. White (as supported by the audiotape of the controlled purchase as well as the testimony of FBI Agent Rob Lockart) demonstrated, Ms. White went in David Wilson's apartment at 1313 Congress Street. On the way to the apartment, White ran into Thurston who expressed annoyance over the fact that she is not buying from him: "You don't want to spend nothing with me. . . . I'm gonna go tell Jazz you're not spending money with us." White then enters the apartment and Wilson immediately starts yelling at her for coming in unannounced: "Next time your ass gonna be bit by the dog." He then asks her, "You got that 200?"

Thurston then arrived at the apartment. Wilson and Thurston then proceed to the back room and get the crack cocaine. Wilson weighs it on a scale and gives it to White. A plastic bag containing 1.5 grams of crack cocaine is given in exchange for \$185. Thurston then tells White: "Here, there you have it. . . . More than you should!"

Prior to meeting with Wilson, White came across Bobby Capies (who at the time was not yet cooperating with the government) near the corner of 13th Place and Congress Street at the snack truck. Capies sold White two dime bags of crack for \$15. White then asked Capies where "Wop" was, and Capies replied: "That man don't sell no dimes no more."

**b. Count 24 – November 18, 2003 Purchase to an Undercover Police Officer
(Government Exhibits 608.1, 608.1A, 608.3, 608.6, 608.7, 608.8)**

MPD Officers Toni Walls, Anthony Guice, Howard Anderson, and Shaun Eppinger, testified regarding this MPD “Buy-Bust” operation.

On November 18, 2003, at approximately 10:50 p.m. in front of 1305 Congress Street, SE, Washington, D.C., Officer Walls, acting in an undercover capacity, purchased crack cocaine from Thurston and Marquita Giles. Specifically, Officer Walls first spoke to Giles, agreed upon the sale of two ziplocks of crack cocaine. Walls then saw Giles confer with Thurston, who then walked over to a white van to retrieve the crack cocaine. Giles then completed the sale with Officer Walls. A lookout was then given for Thurston and Giles.

Shortly thereafter, Gregory Bell was seen by officers ducking down at the driver’s seat of a white Chevy van that had expired temporary tags. When officers approached Bell inside of this white van, they recovered a bag containing 42 ziplocks of marijuana underneath the driver’s seat of the vehicle where Bell was previously seen reaching. Also recovered near the driver’s side door of the van was \$5.00 of MPDC prerecorded funds that had been used in the previous undercover sale to Thurston and Giles. In addition, \$2227.00 in cash was recovered from Bell’s left sock.

8. Both of these offenses of conviction demonstrate not only that Desmond Thurston dealt crack cocaine in Congress Park in 2000 and 2003, but also show how he partnered with other crack cocaine dealers in Congress Park – such as Bell, Wilson and Giles – and also how this partnership was extremely useful in allowing him to deal crack cocaine in Congress Park. Indeed, the relevant conduct cited by the PSI writer and the government – including but not limited to the use of the term “doors,” the sharing and referral of customers, the sharing of suppliers, the chasing away possible rival dealers, the buying and selling of “wholesales” to other accepted crack cocaine dealers – are all part of the same course of conduct and common scheme or plan as the two counts of conviction. *See* U.S.G.G. Section 1B1.3(a)(2) and Commentary Application Note 9. Such relevant conduct also occurred in preparation for the offenses of conviction. U.S.S.G. Section 1B1.3(a)(1).

9. Similarly, the previously-cited testimony of Bobby Capies also demonstrated how Thurston and other drug dealers in Congress Park not only participated in the “*uno dos tres* system” of sharing drug sales for safety reasons as a result of increased violence with 10th Place. *See e.g.* 4/3/07

Tr. at 5337, but also carried and stashed weapons throughout the late 1990s and years that followed in Congress Park as well. 4/4/4/07 Tr. at 5681-82.⁴ *See* Thurston PSI at Paragraphs 49 and 50. Relevant conduct such as this justifies the two-point enhancement for possession of a dangerous weapon, because this possession is not only part of the same course of conduct and common scheme or plan as the two counts of conviction, but because such weapons possession occurred in preparation for the offenses of conviction, and in the course of attempting to avoid detection or responsibility for these offenses. *See* U.S.S.G. Section 1B1.3(a)(1).

10. Finally, Thurston's objection to a two-point enhancement to his criminal history calculation because he committed the instant offense within two years of being under a criminal justice sentence is similarly misplaced. Thurston Mem. at 17. The Guidelines are clear that for purposes of this criminal history calculation, "instant offense" includes any part of the instant offense, including relevant conduct. *See* U.S.S.G. Section 4A1.1, Commentary, Application Note 4.

⁴ Relevant copies of this portion of Mr. Capies' testimony are attached hereto as Exhibit F.

WHEREFORE, the United States respectfully requests that the Court sentence defendant Desmond Thurston to a period of incarceration of between 324 to 405 months.

Respectfully submitted,

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA :

VS : **05-cr-100-2 RWR**

DAVID WILSON :

**MOTION FOR CONSIDERATION OF STILL PENDING MOTIONS, FOR A NEW
TRIAL AND FOR A JUDGMENT OF ACQUITTAL**

David Wilson, by and through undersigned counsel, respectfully moves this Honorable Court, pursuant to Federal Rules of Criminal Procedure and the United States Constitution, for consideration of still pending motions to dismiss counts or for a mistrial, a motion for a new trial and/or a motion for a judgment of acquittal notwithstanding the verdict. In support of this motion, counsel states:

1. Mr. Wilson was found not guilty by the jury of Counts 1, 2, 3, 32, 34, 35, 36, 47, 48, 49, and 54. He was found guilty by the jury on November 28, 2007 as to the charges of unlawful distribution of crack cocaine (Counts 4, 6, 11, 16, 18, 19, 20, 21), unlawful use of a communication facility (telephone) (Count 55) and “aiding and abetting the first degree murder”¹ of Sabrina Bradley and Ronnie Middleton (Counts 31 and 33)².

2. The Court enlarged time for filing of post trial motions pursuant to the Federal Rules of Criminal Procedure 29 and 33 to include March 7, 2008. See Transcript of 11/28/07.

¹ Counsel does not have a copy of the final verdict form for counts 31 and 33 (it does not appear to be filed in the docket) but believes that the charge on the final verdict form was listed as such.

² Counsel would note that the following government civilian witnesses provided evidence related to these counts – Bobby Capies, Kairi Kellibrew, Damien Green, James Faison, Patrice Johnson, Renee Cottingham, Torran Scott. There was no eye witness to the murders. The government’s theory was that in August 1998, LT (Antonio Roberson), Draino (Antoine Draine) and Mr. Wilson drove to the block looking for Ronnie Middleton to kill him for killing Maurice Dolman in 1993 and that LT shot the Ford Bronco up that Ronnie Middleton and Sabrina Bradley were sitting in.

3. The defense moves for consideration of the still pending motions related to *Brady* and *Napue* violations made by the government in this matter, both of which relate to testimony and withheld evidence related to pending counts 31 and 33 and counsel incorporates those arguments by reference in this motion. *Exhibit 1 (Motion Docket # 947 and Exhibits and Reply) and Exhibit 2 (Motion Docket # 986 and Exhibits and Supplement)*. Counsel requests dismissal of the Counts 31 and 33 or for a mistrial on those counts for the basis stated in those motions, which were filed before the verdict on those counts.

4. Counsel moves for a new trial on Counts 31 and 33, due to the considerable *Brady* material that was undisclosed until midtrial and found by counsel after trial, because the interests of justice so require. *Federal Court Rule of Criminal Procedure 33*. Counsel incorporates by reference the *Brady* evidence withheld that was the subject of the motions, *supra* paragraph 3, and the clearly perjurious and uncorrected testimony of Damien Green aka Old Face, who testified consistent with his prior testimony, just by substituting Mr. Wilson for another person in various criminal incidents. See Exhibit 1 and 2. Also, the defense has discovered additional *Brady* material that should have been disclosed to the defense prior to trial. After a post trial interview with Tommy Edelin and his attorney Sebastian Graber, Mr. Graber graciously reviewed the file provided to him by Mr. Edelin's trial counsel and provided undersigned counsel with a copy of Bates stamped discovery from *United States v Tommy Edelin* regarding the murder of Maurice Dolman aka Reece. See Exhibit 3. Contained in this discovery, there are multiple alternative theories for the death of Maurice Dolman:

- (1) that Squid killed him (the government's theory here at trial)
- (2) that Shawn killed him (as told to homicide detectives by Antwanne Norwood Johnson aka Cooler) - Bates Stamped 2930,2931
- (3) that Antwanne Johnson aka Cooler killed him (as told by Squid to Korey Watkins who relayed this to homicide detectives) - Bates Stamped 2929
- (4) that Asay (aka Calvin Smith, a charged codefendant of Kevin Gray and not a known associate of Tommy Edelin) killed him (as told by Maurice Willis, who claimed to have

been shot by Antwann Ball and his brother Kairi Ball because of that murder³) - Bates
Stamped 2928

None of the evidence pertaining to these three alternative theories for the murder of Mr. Doleman was disclosed to the Wilson defense team before or during trial. Each of these different factual scenarios rebuts the motive evidence for the shooting of Ronnie Middleton aka Squid (and his girlfriend Sabrina Bradley) that David Wilson was looking for and trying to kill Ronnie Middleton for years because he had killed Maurice Dolman, Mr. Wilson's alleged play brother. All of this should have been disclosed in time for the defense to investigate it prior to trial on these charges.

Failure to disclose impeachment information, such as the substantial evidence impeaching the government's theory that Squid killed Reese, is the same, under *Brady*, as the failure to disclose exculpatory information, such as the evidence that Joe Joe and Aman killed Squid and Sabrina.⁴ When newly discovered evidence is based on evidence that should have been but was not disclosed pursuant to the *Brady* doctrine, a defendant does not need to meet this same standard for obtaining a new trial. As the Supreme Court has noted:

The fact that such evidence was available to the prosecutor and was not submitted to the defense places it in a different category than if it had simply been discovered from a neutral source after trial. For that reason the defendant should not have to satisfy the severe burden of demonstrating that the newly discovered evidence probably would have resulted in an acquittal⁵.

³ Counsel would note that this is the same shooting for which the government called Bradley Carter in this trial. Mr. Carter is also the witness who provided the government with the identity of the people seen at the homicide scene of Ronnie Middleton and Sabrina Bradley by Teeny Man (aka Michael Smith) who claimed to have been in the back of the Ford Bronco – namely Joe Joe (Joseph Jones – also alleged by the government to be shooting at Maurice Willis) and Aman (Ball). See Exhibit 1 to this Motion.

⁴ See *United States v. Bagley*, 473 U.S. 667, 676 (1985); *Sykes v. United States*, --A.2d-- 2006 WL 564050, at *8 (D.C. March 9, 2006) (“[T]he grand jury testimony of Mr. Parrott and Mr. Sellers should have been disclosed to the defense at an earlier point in time, whether it was considered to be potentially exculpatory information or favorable impeaching evidence.”).

⁵ Here, the standard that the defense must meet is that it is in the interests of justice. Rule 33.

United States v. Agurs, 427 U.S. 97, 111 (1976). When a prosecutor fails to timely disclose *Brady* material, the defendant's convictions must be reversed if "there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A 'reasonable probability' is a probability sufficient to undermine confidence⁶ in the outcome." *United States v. Bagley*, 473 U.S. 667, 682 (1985). Disclosure of this evidence would have resulted in a markedly weaker case for the prosecution and a markedly stronger one for the defense. "Evidence that impeaches the [government's witnesses] is almost invariably 'favorable' to the accused because by making the government's case less credible it enhances the defendant's chances of acquittal." *In Re Sealed Case*, 185 F.3d 887, 893 (D.C. Cir. 1999). See *United States v. Pelullo*, 105 F.3d 117 (3rd Cir. 1997)(non disclosed evidence of three witnesses material since credibility of witnesses central to government's case); *United States v. Fisher*, 106 F.3d 622 (5th Cir. 1997)(any evidence tending to discredit essential witness's testimony would have been valuable to the defense).

5. Counsel also moves this Court for disclosure of any information in the government's possession regarding each of the above named persons, to assist in defense investigation of this material.

6. The defense also renews its motion for acquittal and asks the court to consider this motion as to Counts 4, 6, 11, 16, 18, 19, 20, 21, 31, 33 and 55 notwithstanding the verdicts of the jury. Counsel joins in the arguments made by co-defendants related to proving that the controlled substances were cocaine base also known as crack.

⁶ The "somewhat delphic 'undermine confidence' formula suggests that reversal might be warranted in some cases even if there is less than an even chance that the evidence would produce an acquittal." *United States v. Sepulveda*, 15 F.3d 1216, 1220 (1st Cir. 1993); see also *United States v. Cunan*, 152 F.3d 29, 34 (1st Cir. 1998) (explaining a petitioner may be entitled to a new trial under *Brady* without convincing the court of the certainty of a different outcome).

WHEREFORE, for the reasons presented above, and for such other grounds that the Court sees as appropriate, David Wilson respectfully requests that this motion be granted.

Respectfully submitted,

/s/

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA :

VS : 05-cr-100-2 RWR

DAVID WILSON :

ORDER

Upon consideration of the defendant's MOTION FOR A NEW TRIAL filed on March 7, 2008, and the requests therein, and for good cause shown, it is this _____ day of _____, 2008 hereby

ORDERED that the motion is granted.

SO ORDERED.

The Honorable Richard W. Roberts
U.S. District Court Judge

Exhibit 1

DEFENDANT'S MOTION FOR A MISTRIAL OR DISMISSAL
OF COUNTS 31, 32, 33, 34 AND SUCH FURTHER RELIEF AS THIS COURT
DEEMS JUST AND EQUITABLE AS A CONSEQUENCE OF THE GOVERNMENT'S
REPEATED AND PROFOUND BRADY VIOLATIONS

EXHIBIT 1 TO THAT MOTION

DEFENDANT'S REPLY TO GOVERNMENT'S RESPONSE

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 : **Criminal Nos. 05-CR-100 (rwr)**
v. :
 :
DAVID WILSON (2) :
 :
 :
 :
 :

**DEFENDANT’S MOTION FOR A MISTRIAL OR DISMISSAL
OF COUNTS 31, 32, 33, 34 AND SUCH FURTHER RELIEF AS THIS COURT
DEEMS JUST AND EQUITABLE AS A CONSEQUENCE OF THE GOVERNMENT’S
REPEATED AND PROFOUND *BRADY* VIOLATIONS**

David Wilson (hereafter “Defendant”) by and through undersigned counsel, hereby moves this Honorable Court to declare a mistrial or, in the alternative, to strike Counts 31 -34 from the superseding indictment, and states the following in support thereof:

1. On November 16, 2006 the Government filed the Second Superseding Indictment (document 544). Count 31 charges Defendant with First Degree Murder of Sabrina Bradley. Count 32 charges a Violent Crime in Aid of Racketeering in relation to the same offense. Count 33 charges Defendant with First Degree Murder of Ronnie Middleton. Count 34 charges a Violent Crime in Aid of Racketeering in relation to the same offense. This homicide occurred on August 17, 1998.

2. The principal witnesses in relation to this offense have already testified at trial in this matter. They were Bobby Capies and Kairi Kelliebrew. While neither claimed to have seen it, both stated that Defendant had essentially confessed to driving the car to the murder scene. Both witnesses implicated Antoine Drain and Antonio Roberson as having been involved in the murders with Defendant. It has been the Government's theory throughout trial in this matter that another individual was present in the Bronco when Mr. Middleton and Ms. Bradley were

murdered; but that he managed to climb out the rear of the vehicle and survived. This individual was known as Teeny Man, and he later died in an unrelated incident.

3. On May 22, 2007 Defendant for the **first time** received a police report in relation to this matter. Exhibit A. It is authored by Detective Konstantinos Giannakoulis and states, in relevant part:

On Monday, September 14, 1998, Detective Konstantinos Giannakoulis of the FBI-MPD Safe Streets Task Force responded to the U.S. District Courthouse in Washington D.C., to interview Mr. BRADLEY CARTER, DOB: 7/19/98, PDID: 453-370, OF 3237 Stanton Road, Southeast, WDC. CARTER provided the following information:

On the day of SQUID (Ronnie Middleton) and SABRINA's (Sabrina Bradley) funeral, he drove to the funeral home with TEENY MAN (thought to be Michael Antonio Smith, DOB:5/15/76). TEENY MAN was driving a white Ford Tempo and CARTER was the passenger. TEENY MAN told CARTER that they walked up on the car and started shooting. TEENY MAN stated that AMAN (thought to be Aman Sahlee Ball, DOB: 4/3/74) and JOE-JOE (thought to be Joseph Leon Jones, DOB: 10/26/70) from Congress Park shot SQUID and SABRINA. When AMAN and JOE-JOE started shooting, TEENY MAN hid in the back seat until the shooting stopped. Once the shooting stopped, TEENY MAN jumped out the back of the Bronco and ran.

4. So for the first time ever, Defendant learned today that the one eyewitness who was present on the scene implicated Aman Ball and Joseph Jones¹ - - and not Defendant. Respectfully, undersigned counsel are apoplectic. The Court has seen and signed several vouchers detailing the work that both they and their investigator have completed during the preceding months and years. Throughout all of this they never - - not even for an instant - - suspected that there was evidence suggesting that Aman Ball and Joseph Jones committed the homicide. How could they, when Teeny Man was long since dead? But the Government was aware of this information all along - - information that is hornbook *Brady* and yet Defendant has

¹ While counsel does not represent Mr. Jones, it appears likely that Mr. Jones will file a severance motion based on this disclosure. Of course, this can be cured by granting the relief

only now learned of it.² A mistrial is required.

5. A mistrial "may be granted upon the initiative of either party or upon the court's own initiative." *United States v. Scott*, 437 U.S. 82, 92, 57 L. Ed. 2d 65, 98 S. Ct. 2187 (1978).

Critically, a mistrial must not be declared without prudent consideration of reasonable alternatives. *Federal Rule of Criminal Procedure 26.3* requires that, "before ordering a mistrial, the court must give each defendant and the government an opportunity to comment on the propriety of the order, to state whether that party consents or objects, and to suggest alternatives." The dialogue fostered by *Rule 26.3* ensures that only those mistrials that are truly necessary are ultimately granted.... Ultimately, however, the District Court must exercise prudence and care, giving due consideration to reasonably available alternatives to the drastic measure of a mistrial.

U.S. v. Rivera, 384 F.3d 49, 56 (3rd Cir. 2004) (internal citations omitted).

6. Rather than regurgitate the issue, Defendant draws this Honorable Court's attention to Government pleading 896 in the case at bar.³ This accurately states what is *Brady* evidence, and what is, and is not, grounds for a mistrial. The Government in its pleading acknowledges that exculpatory evidence must be turned over "at such time as to allow the defense to use the favorable material effectively in the preparation and presentation of its case." *Id.* at 5 (citing *Boone v. United States*, 769 A.2d 811 (D.C. 2001)). In the case at bar this information has been around for the best part of a decade. We are fourteen (14) weeks into trial and more than seventy (70) witnesses have taken the stand. It is unfathomable, shocking to the

sought - - a mistrial for Mr. Wilson.

² Indeed, in the interests of filing this motion expeditiously, counsel has not even briefed why this statement is *Brady*, because surely this is beyond dispute. Should the Court require it, counsel will be happy to do so at a later date.

³ This pleading concerns the Government's response to defendant Ball's motion for a mistrial in relation to the untimely disclosure of exculpatory information concerning the Troy Lewis homicide. The law contained within it, however, is equally applicable to the instant motion, and Defendant essentially agrees that it does accurately recite the law with regard to the granting of a mistrial.

conscience, and abhorrent that the Government has just turned over this highly exculpatory evidence at this juncture.⁴

7. The Government goes on to state that “[t]he standard for granting a mistrial similarly focuses on the issue of prejudice to the defendant....In determining whether a sufficient degree of prejudice exists to warrant a mistrial, courts look to three factors’ (1) the closeness of the case; (2) the centrality of the issue affected by the error; and (3) the steps taken to mitigate the effects of the error.” Id. at 6 (internal citations omitted).

8. Taking each of these factors into consideration:

FIRST FACTOR - - while obviously the Middleton and Bradley murders are ultimately a question for the jury, this Court cannot failed to have noticed the less than truthful testimony of Messrs. Capies and Kelliebrew. Similarly, the Court no doubt heard and viewed the nonplussed demeanor of the jurors during vast swathes of their testimony. No eyewitness purports to put Defendant at the scene. But today we learned that the only eyewitness to the crime puts someone other than Defendant at the scene;

SECOND FACTOR - - it follows from the foregoing that this issue is pivotal to the Defendant’s case. If Defendant is convicted of these counts it is a mandatory life sentence. As he only has one life to give, it is scarcely hyperbole that these counts will literally determine Defendant’s fate. Indeed the centrality of the issue is evinced by Mr. Leon’s opening statement. The **very first thing** that he tells the jury of substance in relation to the case at bar is:

This is Sabrina Bradley. Sabrina Bradley was 26 years old. Sabrina Bradley was the mother of two girls, four-year-old Bianka and eight-year-old Tornesha...A four-year-old daughter named Bianka and an eight-year-old

⁴ While the Government has repeatedly claimed that it takes its *Brady* obligations seriously, and is leaving no stone unturned in its search for it, Defendant’s experience has been quite the contrary. As is patently obvious, little or no examination has been made of the Edelin materials within its possession.

daughter named Tornesha. Back in August of 1998, Ms. Bradley was dating a young man and his name was Ronnie Middleton and he went by the nickname of Squid.

In the early morning of Monday, August 17th, 1998, Ms. Bradley was out with Squid, her boyfriend, driving around in their neighborhood, which at the time was the 1500 block of Congress Place, Southeast in Washington, D.C. The two of them were with a third person, a man named Michael Smith who went by the nickname of Teeny Man; Michael Smith, Teeny Man. And Ms. Bradley was out with Mr. Smith and Mr. Middleton while another woman, a woman named Patrice Johnson, who is Ms. Bradley's cousin, was babysitting her youngest daughter Bianka.

At about 2:00 in the early morning of Monday, August 17th, 1998, Ms. Bradley, Mr. Middleton and Mr. Smith were out in the 1500 block of Congress Place, Southeast. They were in Mr. Bradley's white Ford Bronco, a truck. That truck was parked on the 1500 block of Congress Place, Southeast. Mr. Middleton was behind the front driver seat, Mr. Bradley was aside him in the front passenger seat and Mr. Smith was in the back, the back of the truck. The car was parked and on that very same street just a few houses away, Ms. Johnson, the cousin, was babysitting Ms. Bradley's youngest daughter Bianka. What Ms. Bradley didn't know, couldn't know and had no way of possibly knowing was that she only had a few hours left to live, because at 2:00 in the early morning of August 17th, 1998, that white Ford Bronco was engulfed in a hail of gunfire from a .9 millimeter semiautomatic pistol. Over a dozen bullets were fired into that truck. Ms. Johnson was startled. She was awakened and she looks outside of her window and she sees Teeny Man, Mr. Smith, running from the direction of the truck towards her home. He was lucky. He wasn't hit with any bullets. He survived.

Ms. Bradley and Mr. Middleton were not as lucky. Both Ms. Bradley and Mr. Middleton were hit with five bullets each to their bodies, each. Amazingly, Squid, Mr. Middleton, was able to get hold of that truck behind the wheel and drive that truck ten blocks to the 7th District police station. He drove it ten blocks to the 7th District police station, crashed that truck right in front of the 7th District police station and stopped it in front of that front door.

It stops. The police rush out and they try to assist Mr. Middleton and Ms. Bradley, Sabrina and Squid. Initially, they're alive and conscious, but unfortunately, they wouldn't be for long. Mr. Bradley [sic] died a few hours later -- Mr. Middleton died a few hours later; Ms. Bradley died just a few hours after that. Why? Why did these two young people die? They died, ladies and gentlemen, because a man who is sitting with us today in this courtroom decided that they're going to die. That man is this man. His name is David Wilson.

Tr. 2/21/07 a.m. at 18-20. Thus, the Middleton and Bradley murders are the centerpiece of the

Government's case against these defendants in general, and Mr. Wilson in particular. Also of note is that the Government names Teeny Man; so clearly they have been aware of his existence for several months, and yet the *Brady* evidence was not furnished until today.⁵

THIRD FACTOR: there are no steps that the Court can take to mitigate the error, other than granting a mistrial.⁶ It has taken months to interview every witness that might know something about the deaths of Mr. Middleton and Ms. Bradley, and many of the witnesses are scattered geographically. Several are incarcerated and counsel have been required to work with their counsel in order to sit down with them. This has proven time consuming and dilatory. At no point have counsel or their investigator enquired from any of these witnesses if they ever discussed the matter with Aman Ball or Joseph Jones - - because they were entirely unaware that these two persons were alternative suspects. Neither has counsel attempted to ascertain the

⁵ While perhaps the withholding of this statement taken a vacuum could be seen as an inadvertent error on the part of Government, the Court is aware that this is simply the latest, and most egregious, in a line of *Brady* errors. Certainly, the Court will recall that in relation to the Reginald Reid homicide, the exculpatory fingerprint evidence appeared promptly after this Court sustained Defendant Wilson's objection. By the same token, the Court has taken under advisement Defendant Ball's motion for a mistrial in respect of "Smoke's" confession to the Troy Lewis murder. The following also spring to mind: (1) Keith Barnett's testimony impeaches Bobby Capies claims about the murder they committed together; yet this was not disclosed in time to confront Bobby Capies; (2) Mr. Kelliebrew's testimony of statements made by Antonio Roberson impeaches both Keith Barnett and Bobby Capies (i.e. that Bobby Capies shot D Lock first) but again this was not disclosed in time to confront either of them concerning it; (3) JT's testimony impeached Mr. Kelliebrew's concerning the Jamal Sills murder and other various bad acts of Mr. Kelliebrew on a multitude of issues; (4) Mr. Kelliebrew's claim that LT and Draino both shot Middleton and Bradley impeaches Capies' claim that the confession to him was that only LT was shooting; and (5) more generally various cooperator's testimony impeaches others concerning locations, amounts of drugs, suppliers and the like. Yet none of these were revealed in advance so that timely use could be made of them. While counsel does not wish to get into a "he said, she said," this list is indicative of a pervasive atmosphere of *Brady* leaking out in a less than expeditious manner.

⁶ While Defendant has also requested that the Counts be struck, this is a less than ideal solution. See further, *infra*.

whereabouts of Mr. Jones or Aman Ball on the night in question, or to explore with members of the Edelin organization whether any of its members had cause to take umbrage with either Mr. Jones or Aman Ball; or vice versa. It is therefore simply impossible to attempt to complete all of these tasks at this juncture, while simultaneously appearing in court every day, and juggling the other balls that are always in the air in a trial of this magnitude. Simply put: this tardy revelation to which Defendant was entitled **years ago** necessitates a mistrial in order that Defendant can be afforded effective assistance of counsel in relation to these counts.

9. Respectfully, Defendant represents that a mistrial as to Mr. Wilson is the only prudent course of action. Even striking the counts will not guarantee a lack of reversible error, because the bell cannot be unrung. The jury has heard at length about this double homicide, and asking them to put it aside at this juncture is simply not practicable. The witnesses that testified concerning it were not confronted about this statement, and Defendant was ill-equipped to cross examine concerning the possibility that Aman Ball and Joseph Jones committed the homicide, sans Mr. Wilson because, simply put, Mr. Wilson remain oblivious that this information was out there and in the hands of law enforcement. A mistrial would also remove any basis for a severance on the part of Mr. Jones. As only Mr. Wilson is alleged to have participated in the Middleton and Bradley homicide, the granting of a mistrial will not affect the remaining defendants. No instruction can remedy the current *Brady* violation and a mistrial is required - - no ifs, ands, or buts.

10. While Defendant maintains that only a mistrial or the striking of these counts will serve the interests of justice, should the Court not be inclined to grant one Defendant requests that he be: 1) allowed to interview Mr. Carter prior to his testimony in this matter; and 2) that he be allowed to elicit this information from Mr. Carter at trial in this matter. Defendant makes the

former request because clearly, had he known about this information all along, he would have investigated it all along. A discussion with Mr. Carter is necessary to attempt to narrow down the search, and for a later effective cross-examination. Defendant requests the latter because, whereas it may be hearsay, the interests of justice require that evidence as to Mr. Amon Ball and Mr. Joseph Jones' participation in the Middleton and Bradley crime be presented to the trier of fact.

11. Defendant states this for several reasons. Firstly, the right of Confrontation belongs to a defendant, not the Government. The information is reliable in that the statement was made within a few days of the killing, and by someone who was actually there. Cf. Kelliebrew and Capies.

12. Secondly:

Few rights are more fundamental than that of an accused to present witnesses in his own defense...In the exercise of this right, the accused, as is required of the [prosecution], must comply with established rules of procedure and evidence designed to assure both fairness and reliability in the ascertainment of guilt and innocence. Although perhaps no rule of evidence has been more respected or more frequently applied in jury trials than that applicable to the exclusion of hearsay, exceptions tailored to allow the introduction of evidence which in fact is likely to be trustworthy have long existed. The testimony rejected by the trial court here bore persuasive assurances of trustworthiness...That testimony also was critical to [the defendant's] defense. In these circumstances, where constitutional rights directly affecting the ascertainment of guilt are implicated, the hearsay rule may not be applied mechanistically to defeat the ends of justice.

Chambers v. Mississippi, 410 U.S. 284, 302; 93 S. Ct. 1038; 35 L. Ed. 2d 297 (1973). Accord *Crane v. Kentucky*, 476 U.S. 683, 690, 106 S. Ct. 2142, 90 L. Ed. 2d 636 (1986) ("[w]hether rooted directly in the Due Process Clause of the Fourteenth Amendment or in the Compulsory Process or Confrontation clauses of the Sixth Amendment, the Constitution guarantees criminal defendants 'a meaningful opportunity to present a complete defense'." (internal citations

omitted)).⁷

WHEREFORE, for all the foregoing reasons, and any others that may appear to the Court, Defendant respectfully requests the Court to grant a mistrial or dismiss counts 31-34 of the second superseding indictment.

Dated: Baltimore, MD
May 22, 2007

Respectfully submitted,

LAW OFFICE OF GARY E. PROCTOR

By: /S/

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DC Bar 465476

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(202) 326-7100

Counsel for David Wilson

⁷ See also the recent case of *Holmes v. South Carolina*, 547 U.S. 319; 126 S. Ct. 1727; 164 L. Ed. 2d 503 (2006).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of May 2007, I caused a true and correct copy of the foregoing Motion to be delivered to the parties in this matter via both Email and Electronic Case Filing.

_____/S/_____
Gary E. Proctor

09/14/98

On Monday, September 14, 1998, Detective Konstantinos Giannakoulis of the FBI-MPD Safe Streets Task Force responded to the U.S. District Courthouse in Washington, D.C., to interview Mr. BRADLEY CARTER, DOB: 7/19/78, PDID: 453-370, OF 3237 Stanton Road, Southeast, WDC. CARTER provided the following information:

On the day of SQUID (Ronnie Middleton) and SABRINA's (Sabrina Bradley) funeral, he drove to the funeral home with TEENY MAN (thought to be Michael Antonio Smith, DOB: 5/15/76). TEENY MAN was driving a white Ford Tempo and CARTER was the passenger. TEENY MAN told CARTER that they walked up on the car and started shooting. TEENY MAN stated that AMAN (thought to be Aman Sahlee Ball, DOB: 4/3/74) and JOE-JOE (thought to be Joseph Leon Jones, DOB: 10/26/70) from Congress Park shot SQUID and SABRINA. When AMAN and JOE-JOE started shooting, TEENY MAN hid in the back seat until the shooting stopped. Once the shooting stopped, TEENY MAN jumped out the back of the Bronco and ran.

Sometime in 1993-1994, CARTER was in a vehicle occupied by POOH (FNU LNU), TRAVIS HONESTY, and BLACK (thought to be Maurice Willis). While on Southern Avenue, Southeast, a vehicle pulled up beside them. The vehicle was occupied by ANTOINE BALL and JOE-JOE (thought to be Joseph Leon Jones) from

09/14/98 Washington, D.C.

245D-WF-205448

DET. KONSTANTINOS GIANNAKOULIAS KSG:ksg

245D-WF-205448

Bradley Carter

09/14/98

2

Congress Park. ANTOINE BALL and JOE-JOE started shooting at them over the murder of REESE (Maurice Doleman). CARTER was shot in the wrist, POOH was shot in the elbow, and BLACK was shot in the head. CARTER has known ANTOINE BALL and JOE-JOE for approximately 3-4 years.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 : **Criminal Nos. 05-CR-100 (rwr)**
v. :
 :
DAVID WILSON (2) :
 :
 :
 :
 :

DEFENDANT'S REPLY TO GOVERNMENT'S RESPONSE

David Wilson (hereafter “Defendant”) by and through undersigned counsel, hereby moves this Honorable Court to declare a mistrial or, in the alternative, to strike Counts 31 -34 from the superseding indictment, and states the following in support thereof:

1. In document 947, filed on May 22, 2007, Defendant asked this Honorable Court for a mistrial on the basis of the Government's Repeated and Profound *Brady* violations. On May 26, 2007, Defendant received the Government's response.

2. Respectfully, the Government's response misses the mark on several important levels. Firstly, the Government goes to great lengths to evince the lack of cooperation on the part of Mr. Carter. Whereas this may be true, this had **nothing whatsoever** to do with the *Brady* violation complained of herein. The FBI 302 was in the custody of the U.S. Attorney's Office throughout, and it is no way incumbent upon Mr. Carter, or Mr. Wilson for that matter, to jog the Government's memory. Accordingly, Defendant respectfully represents that any lack of cooperation on the part of Mr. Carter is not a "get out of jail free" card for the failures of the Government to turn over materially exculpatory evidence in a timely fashion.

3. Next the Government tells this Court that:

Notably, the statement at issue in no way contradicts the core allegation that the government has always, and consistently, maintained: namely, that David Wilson

was the getaway driver for the Middleton/Bradley double-homicide. The FBI 302 merely purports that two other Congress Park co-conspirators (Aman Ball and Joseph Jones) were Mr. Wilson's accomplices, rather than the two Congress Park co-conspirators with whom the government alleges that Wilson committed this murder (Antonio Roberson, aka LT and Antoine Draine, aka Draino). The FBI 302 at issue is completely silent (and therefore in no way inconsistent) regarding who the getaway driver was.

Government's Response at 3-4. There are several things to say about this. Firstly, Defendant is ill-equipped to refute these allegations at this time. Certainly, had he been furnished the *Brady* at a timely juncture he could have interviewed the salient witnesses, and been in a position to weave Mr. Carter's statement into his theory of the defense for presentation to the jury during opening statements and during the cross-examination of, *inter alia*, Mr. Capies, and Mr. Kelliebrew. The Government calls Mr. Smith's statement to Carter 'aberrational.' *Id.* at 8. Whereas that may be the case, Defendant is unable to agree or disagree given that he has been unable to reinterview the myriad of witnesses he has already spoken to in an effort to gauge whether this is a plausible scenario. The horse has bolted however, and absent a mistrial Defendant's defense as to these counts will likely be little more than a placebo.

4. Secondly, Mr. Carter's statement makes no mention whatsoever of a car being involved. Given that Aman Ball and Joseph Jones are Congress Park habitués, it is entirely conceivable that they traveled on foot to and from the murder scene. Thus, the omission of the getaway driver, or the lack of a getaway vehicle buttresses the *Brady* error; it in no fashion ameliorates it.

5. The Government is responsible for all *Brady* within its possession. It cannot somehow ignore the Edelin and Gray files within its possession in an ostrich like way, and then claim to have been unaware of it. At this juncture, the lack of an apparent systematic review on the part of the United States' Attorney's Office for *Brady* within its possession is simply

staggering.¹ Due diligence was required at a much earlier juncture - - and the lack of it until this 11th hour warrants a mistrial.

6. The Government also claims that Defendant is unable “to demonstrate that the suppressed evidence would have *produced a different verdict*. This the defendant has not, and cannot, do.” *Id.* at 4 (emphasis supplied). Whereas it is, no doubt, just a typo, counsel feels compelled to point out that there has not been a verdict yet. Indeed, one is likely several weeks away. Thus, any requirement that Defendant demonstrate to this Court that the outcome would have been different is inapposite. Counsel raised this matter with the Court at the earliest possible juncture, the day they received it. Given the materiality of the disclosure and the lateness of it, counsel is ill-equipped to go forward.²

7. The Government then attempts to lessen its error by point out several things to the Court. The first of these are the testimony of Capies and Kelliebrew. While there is little point in rehashing the Defendant’s previous pleading, as outlined therein, significant problems exist with said witnesses’ credibility. Thus, by no stretch of the imagination are these counts a slam

¹ Recently Judge Friedman held in an analogous case that “[t]he government responds that U.S. Trustee Dennis Early 'has searched his files, and there are no documents that relate to any 'approval' of Naegele's bankruptcy petition." Opp. at 9. There are two problems with this response. First, a search by Mr. Early of his own files is an inadequate and incomplete search because the Trustee's files are not the only reasonably likely source for such records. The government must also search the files of the main office of the Region 4 Trustee in Columbia, South Carolina and any other files where the requested information might likely be found; it then must certify that it has done so.” *United States v. Naegele*, 468 F. Supp. 2d 150, 154 (D.D.C. 2007). In the case at bar no such Herculean endeavors were required; the files were at all times within the direction and control of the same office. Accord *United States v. Safavian*, 233 F.R.D. 12 (D.D.C. 2005).

² The Government argues that the information to Defendant was disclosed in time for him to use it effectively at trial. Undersigned counsel, however, hold the diametrically opposite view. And, respectfully, counsel are in a better position to know given their familiarity with the defense case, defense witnesses, Defendant, and the like.

dunk for the United States. Next, the Government relies on what Robert Pough might have said had his testimony been admissible. Respectfully, the idea that inadmissible testimony which is unknown to the jury can somehow be considered by this Court in assessing the merits of this motion stretches credulity.³ The Government goes on to suggest that two (2) unnamed witnesses will state that Defendant implicated himself in the Middleton and Bradley homicides. No doubt they will, and when they do Defendant will be similarly unable to cross-examine them given that he was unaware of Mr. Carter's statement until just a few days ago, and has not had time to investigate it. Thus, further witnesses testifying about a homicide that Defendant is unable to effectively investigate due to tardy disclosure by the Government compounds the error; it in no way lessens it.

8. The Government tells the Court what it expects the testimony of Mr. Patrice Carter to show, i.e. that Mr. Smith was unable to identify the shooters.⁴ Who is telling the truth in this regard, is a question for the jury. But the jury will likely know little or nothing about the plausible alternative theory that Mr. Jones and Mr. Aman Ball carried out the shooting because Defendant knew nothing about it until much too late in the trial to investigate it and present it.

9. Finally, the Government states the steps it has taken to lessen the impact of the *Brady* violation on its part. Whereas counsel does not doubt the sincerity of the Government in this regard, there is nothing that can be done at this point in the proceedings to undo what has

³ The same is also true in respect of W-7 who apparently has information that implicates Defendant, and yet the Government does not plan to call him/her. Whatever the reason, it is surely the case that evidence that will not be elicited at trial cannot lessen the impact of a *Brady* violation.

⁴ Interestingly, the Government makes no mention of Mr. Smith telling Patrice Johnson about the presence of any get away vehicle. For all of the reasons outlined above, however, Defendant cannot represent to this Court that this omission is, or is not, significant. Only a mistrial and an adequate period of investigation will answer that question.

already occurred. Counsel or their investigator have literally knocked on scores of doors, visited several prisons, spoken with dozens of incarcerated inmates and their counsel, and left no stone unturned. At no point did they ask any of the witnesses if they had information about Aman Ball or Joseph Jones with regard to the Squid and Sabrina homicide - - because they had no cause to do so. Nor did they explore what motives these alternative suspects might have for killing Middleton and/or Bradley. To go back and reinterview all of these persons at this juncture while simultaneously in trial is unfeasible. And even if it could be done, to weave it into a coherent defense strategy is implausible. Add to that, that Capies and Kelliebrew have already testified, and it is simply impossible, absent a mistrial, to atone for the untimely disclosure.⁵

10. What has already occurred at trial in this matter cannot be undone with this jury. Witnesses that have already been interviewed will have to be reinterviewed; a task that is simply impossible within the time confines currently available. If the Constitution and *Brady* caselaw are to be more than mere rodomontade, a mistrial is required.

WHEREFORE, for all the foregoing reasons, and any others that may appear to the Court, Defendant respectfully requests the Court to grant a mistrial or dismiss counts 31-34 of the second superseding indictment.

⁵ The Government calls Defendant's prior pleading "inflammatory." *Id.* at footnote 4. While it was not Defendant's intent to have the Government up in arms, it is the rest of Defendant's life that hangs in the balance, and he cannot present a defense when, for whatever reason, disclosures are not timely.

Dated: Baltimore, MD
May 28, 2007

Respectfully submitted,

LAW OFFICE OF GARY E. PROCTOR

By: _____/S/

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Counsel for David Wilson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May 2007, I caused a true and correct copy of the foregoing Motion to be delivered to the parties in this matter via both Email and Electronic Case Filing.

_____/S/_____
Gary E. Proctor

Exhibit 2

MOTION FOR A MISTRIAL (Docket 986)

Exhibit 1

Exhibit 2

SUPPLEMENT TO MOTION FOR A MISTRIAL

Exhibit 3

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 :
 v. : Criminal No. 05-CR-100-2 (rwr)
 :
 :
 DAVID WILSON :
 :
 _____ :

MOTION FOR A MISTRIAL

David Wilson, by and through undersigned counsel, respectfully moves this Honorable Court for a mistrial for the presentation of perjured testimony in the presentation of re-direct testimony of Damien Green. In support of this motion, counsel states the following:

1. On Thursday May 31 and June 4, 2007, the government presented the testimony of Damien Green aka “Old Face” to the jury, to support the conspiracy and RICO charge (counts one and two) as well as substantive counts of assault with intent to kill James Faison.

2. During cross, counsel asked about all of the incidents¹ that Mr. Green discussed on direct, two of which he testified about at the Edelin trial, only differently there.² See Exhibit 1 – excerpts³ of Damien Green’s testimony in Edelin case. During cross he volunteered that there was another incident with Tweety, Joonie and Cool Wop. Tr at 14142. (See Exhibit 2 – Transcript of

¹ These incidents were (1) a 1993 incident where Mr. Green claims Mr. Wilson stole his polo sweatshirt, (2) a 1995 incident where he claims he saw the print of a gun in Mr. Wilson’s pocket as he walked in the Brooks family’s house on 15th Place, (3) three shootings in 1996 (A) Tweety and Wop shooting at JJ’s car at Congress Place and Stanton Road SE (B) hearing gunshots and then seeing Tweety and Wop with guns (and Squid shot at Tweety) and (C) in the back of the rec center seeing Tweety, Wop, Fat Tony, Draino and Joe Joe in a car and then observing Wop and Tweety shooting 75 shots.

² Notably, he testified there that (1) they went around Congress Park in a stolen cab looking for Tweety, whereas in the case at bar he testified that they were looking for Cool Wop and (2) that Tweety, Spook and Cool Wop came through the cut and that he saw them shooting; whereas here he claimed on direct that it was merely Tweety and Cool Wop; and admitted that he did not see any shooting except Squid shooting at Tweety.

³ Counsel has excerpted the portions of his testimony where he mentioned “KoolWhop” as well

Damien Green's testimony in *US v Ball et al.*) This was nonresponsive to counsel's question. Over objection, the Court allowed the government to question the witness about the incident involving Tweety, Joonie and Cool Wop. The Court then did not allow counsel re-cross on this area, so the jury is now left thinking that Mr. Green testified consistently at the Edelin trial; while the truth is that he did not. Not only did he claim it was Tweety, Junie and Pete in the Edelin case; he said he did not see them but rather was told by Anthony and his cousin Muncee. See *Exhibit 1* at 13975 lines 21-23.

3. Counsel would note that there was NO incident that Mr. Green testified about at the Edelin trial that involved Tweety, Joonie and Cool Wop; rather he testified about an incident involving Tweety, Joonie and Pete, which appears to be the same incident, albeit "Pete" is not Cool Wop. See *Exhibit 1* at 13973 line 12 through 13980 line 18. As stated previously, the only mention by this witness of Cool Wop at the Edelin trial pertained to other incidents. Counsel submits that at the government's asking, which is charged with the knowledge of the witness's previous statements, the witness committed perjury. The government sponsored this testimony and did nothing to correct it, even though the government has the affirmative constitutional "responsibility and duty to correct what he knows to be false." *Napue v. Illinois*, 360 U.S. 264, 269-70 (1959). And the government sponsored the testimony with the mention of Pete rather than Cool Wop in the previous proceeding.

4. This evidence raises constitutional considerations that afford Mr. Wilson relief. This evidence inculpatates the government in knowingly using perjured testimony, in violation of the Due Process Clause of the United States Constitution, in this matter. The Supreme Court has made clear that "a lie is a lie no matter what its subject, and, if it is in any way relevant to the case, the [prosecutor] has the responsibility and duty to correct what he knows to be false and elicit the truth,"

as his testimony of the incident where Cooler got shot at by Tweety, Junie and Pete.

by apprising the jury of the “true facts.” *Napue*, 360 U.S. at 269-70 (1959). Accordingly, once a prosecutor determines that false testimony has been presented, he or she has an affirmative responsibility under the Due Process Clause to “correct” it in open court – not merely disclose it to the court and/or the defense. *Id.* at 269; *see also Keys v. United States*, 767 A.2d 255, 261 (D.C. 2001); *United States v. Iverson*, 637 F.2d 799, 803 n. 10 (D.C. Cir. 1980). Throughout the country, courts have found that the presentation of false testimony creates an affirmative obligation on the part of the prosecutor to actively cleanse the trial record, holding, for example, that “despite defense counsel’s efforts on cross-examination, the government ha[s] an independent obligation immediately to take steps to correct known misstatements of its witnesses.” *United States v. Alli*, 344 F.3d 1002, 1007 (9th Cir. 2003).⁴ This is because “the government’s duty to correct perjury by its witnesses” requires unequivocal clarification of the record and is therefore “not discharged merely because counsel knows, and the jury may figure out, that the testimony is false.” *United States v. LaPage*, 231 F.3d 488, 492 (9th Cir. 2000).

Already, the defense *did* affirmatively request correction, by way of recross. This request for affirmative correction distinguishes this case from those federal cases in which the defense never made a contemporaneous request for affirmative correction of the record. *See, e.g., United States v. O’Keefe*, 128 F.3d 885, 896 (5th Cir. 1997); *United States v. Grosz*, 76 F.3d 1318, 1328 (5th Cir. 1996).

WHEREFORE for these grounds, grounds raised at any hearing on the defendant’s motion,

⁴ *See also Jenkins v. Artuz*, 294 F.3d 284, 294-96 (2nd Cir. 2002) (reversing conviction where prosecutor “did nothing to correct” false evidence and holding that “even prosecutorial silence harms defendants who are unable to respond effectively”); *United States v. Mason*, 293 F.3d 826, 829 (5th Cir. 2002) (reversing conviction where government failed to correct false testimony and holding that defense conduct “does not relieve the government of its affirmative obligation to correct false testimony”); *United States v. Foster*, 874 F.2d 491, 495 (8th Cir. 1988) (reversing conviction where prosecutor “breached...duty to correct falsehoods”).

and any other grounds deemed meritorious by the Court, counsel and Mr. Wilson request a mistrial in this matter.

Respectfully Submitted

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : CR Number 98-264
:
Government, :
:
v. : Washington, D.C.
: Monday, July 16, 2001
TOMMY EDELIN, : 9:44 a.m.
EARL EDELIN, :
SHELTON MARBURY, :
HENRY JOHNSON, :
MARWIN MOSLEY, :
BRYAN BOSTICK, :
:
Defendants. :
:
- - - - -x

DAY 64
TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE ROYCE C. LAMBERTH
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the Government: STEPHEN J. PFLEGER, ESQUIRE
WILLIAM M. SULLIVAN, ESQUIRE
PAUL A. QUANDER, ESQUIRE
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For Defendant JAMES W. RUDASILL, JR., ESQUIRE
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Pages 13,726 through 13,986

OFFICIAL COURT REPORTER

THERESA M. SORENSEN,

Page 13907

1 Q. What does that mean?

2 A. It mean that he smoke PCP and the PCP had him in

3 another world far as hallucinating, spaced out. He was just

4 real high.

5 Q. When he told you that he was lunching off of the PCP

6 and that he was planning on killing you and others, did you

7 know who Tony was talking about when he said he was planning

8 to kill you and the others?

9 A. Yeah.

10 Q. Who?

11 A. Talking about me, Blue, Wah-Luck, J.J., La-La,

12 whoever out there, he was beefing with everybody.

13 Q. When Tony gave you that information about keep your

14 gun with you, don't put your gun down, and you said

15 something else about the police rather -- what was that?

16 A. He was saying that you would rather for the police to

17 catch you with the gun than your enemy.

18 Q. Why is that?

19 A. Because if your enemy catch you without your gun, you

20 can't protect yourself. But if the police catch you,

21 there's always a way that you can get out.

22 Q. Did you take his advice seriously?

23 A. Yeah.

24 Q. When Tony Edelin passed on that information to you,

25 what impact did Tony telling you that information have on

Page 13909

1 Q. And how was it that he happened to show you this gun?

2 A. He had like a strap on his stomach, he strap it, put

3 the gun like in the middle of it, and you put your sweater

4 over top of it, and you couldn't tell that you have a gun on

5 you.

6 Q. Was there any particular reason why he showed you the

7 way that he carried the gun?

8 A. Because he was trying to show me how to carry mine

9 steady. Carry it in my pocket, and you see the print and

10 everybody can see it. Said just either have on some

11 sweatpants and get you a -- like one of them holsters with a

12 cushion and you can put it in front of you, and then you can

13 have on sweatpants and nobody won't think that you will have

14 a gun on you while you got on sweatpants. So -- or either

15 get one of them straps that he got. And so nobody can't see

16 the print of the gun.

17 Q. Did you consider that good advice?

18 A. Yeah.

19 Q. Again showing you Government's Exhibit Number 17B1,

20 did there come a time when your cousin Munsey was involved

21 in a shooting with Tweety while he was on a bicycle?

22 A. Yeah.

23 Q. Can you tell the ladies and gentlemen of the jury

24 what happened in that incident?

25 A. It was one night, I don't remember what date, we had

Page 13908

1 you?

2 A. Say that again.

3 Q. What impact did Tony Edelin himself sharing that

4 information with you have on you?

5 A. It was a lot -- it was a lot of impact. I'm going to

6 listen to him.

7 Q. Why? Why are you going to listen to Tony Edelin?

8 A. Because he a old-timer and I mean far as -- I mean

9 far as me growing up, he always used to be, you know,

10 schooling us to a lot of things, you know, even if it was

11 either good or bad. You know, he going to give us some

12 knowledge, regardless.

13 Q. You said either good or bad?

14 A. Yeah. He going to give us some knowledge,

15 regardless.

16 Q. Have you ever known Mr. Edelin, Tony Edelin, to carry

17 a gun?

18 A. Yeah.

19 Q. Tell us about that. How do you know Tony Edelin

20 carried a gun?

21 A. He showed me.

22 Q. Where was he when he showed you?

23 A. In the center.

24 Q. The recreation center?

25 A. Yeah.

Page 13910

1 got a call saying that Tweety supposed to come -- supposed

2 to come around there. So me, Squid, and Wah-Luck and J.J.,

3 we was all in the court, and my cousin had came around, so

4 he was riding the Baja, a bike. So I told my cousin to get

5 off the bike, and --

6 Q. Why? Why did you tell him to get off the bike?

7 A. Because Tweety and them supposed to be coming around.

8 Q. And just so it will be clear, the cousin that you're

9 speaking of is who?

10 A. Munsey.

11 Q. Okay.

12 A. So Munsey rode up, we was in this court right here.

13 Munsey --

14 Q. Who lives in this court?

15 A. Who live in this court right here?

16 Q. Yes.

17 A. Mush baby mother.

18 Q. Okay, what is her name?

19 A. Bernie.

20 Q. Bernie?

21 A. Yeah. Treesy. Squid baby mother cousin. Junebug,

22 police officer mother Ms. Carrie.

23 Q. So Junebug's mother lives in this court here?

24 A. Yeah.

25 Q. All right. So just for consistency and sake of

47 (Pages 13907 to 13910)

Page 13911

1 arguing -- or sake of ease, why don't we refer to this court
2 where you just put the arrow as Junebug's court.
3 A. Okay.
4 Q. When we refer to that. Okay?
5 A. Okay.
6 Q. Why don't we refer to this court here as Blue's
7 court.
8 A. Okay.
9 Q. Okay. And why don't we refer to this court as Ms.
10 Carrie's cut, or the boathouse?
11 A. Okay.
12 Q. All right. So we're talking about Junebug's mother's
13 court right here.
14 A. Right.
15 Q. Okay. Tell us what happened.
16 A. So Squid was standing like right here. Munsey rode
17 the bike all the way up here. Tweety came through this cut.
18 Spook came through this cut, and Koolwhop came through this
19 cut.
20 Q. Now who is Koolwhop?
21 A. He live around Congress Park.
22 Q. Was he associated with Tweety and Spook?
23 A. Yeah.
24 Q. All right. Please continue.
25 A. So we was all in this court where there's a lot of

Page 13913

1 his gunshots.
2 Q. How could you tell your cousin's gun?
3 A. Because the gun that he had, I heard it go off
4 before, and the way his was going off, Tweety gun -- I knew
5 what type of gun he had. His gun was more louder than my
6 cousin gun, and my cousin had emptied the clip on him, and
7 so after he did that, he came around there and told me that
8 he just finish shooting at Tweety.
9 Q. Was anyone hit at all in all of this shooting, that
10 you know of?
11 A. No.
12 Q. Was anybody hit in Junebug's mother's court that you
13 know?
14 A. No.
15 Q. Was anybody hit in Blue's court?
16 A. No.
17 Q. You mentioned earlier an individual that you were
18 close with early on by the name of Funky. Do you remember
19 that?
20 A. Yeah.
21 Q. When this beef first kicks off and this shooting
22 starts to intensify, what's the relationship between Blue
23 and Wah-Luck and Funky?
24 A. They don't like him.
25 Q. Why is that?

Page 13912

1 young dudes was in this court right here.
2 Q. In Blue's court?
3 A. In Blue's court.
4 Q. Okay.
5 A. And they didn't know we was in this court. So they
6 got the -- all three of them got to shooting from over here
7 to over here. They got to shoot in this court.
8 Q. Okay. So all three individuals were shooting in
9 Blue's court on Congress Place?
10 A. Right.
11 Q. Okay. And after they finish shooting, Tweety ran
12 from this cut and ran to this cut. When he got like where
13 the street at, Squid shot from over here, try to hit him,
14 but he didn't. So when he got -- Tweety got like up here,
15 that's when my cousin Munsey caught him through this cut,
16 start shooting at him right here, then he ran down this way.
17 Q. Now how do you know all of this? Where were you
18 located?
19 A. I'm still -- I'm still in the court, but after Munsey
20 shot at him, Munsey came and told us that he caught him in
21 the cut right here. I seen Tweety ran from this cut to this
22 cut. He had a blue-and-white striped sheet.
23 Q. Could you hear the gunshots or the gunplay between
24 Tweety and your cousin Munsey?
25 A. Yeah. Basically I hear mostly all my cousin guns,

Page 13914

1 A. Because for one Funky was hanging with Tweety, and
2 two, Blue had a gun that Randy supposed to have, and Funky
3 kept coming down there telling Blue to give him the gun. So
4 Blue -- Funky used to be high off the PCP, so that made Blue
5 paranoid because Funky keep coming down there asking about
6 the gun. So Blue keep saying if he keep coming down here,
7 he going to kill him. And but he never got to that point,
8 and Wah-Luck -- when Wah-Luck and J.J. had Tweety and Funky
9 was in the car together on 15th Place, and Wah-Luck and J.J.
10 ran down on the car and shot at the car, Tweety pulled off
11 up to 15th Place and Funky stuck the gun out the sunroof and
12 shot at Wah-Luck and J.J.
13 Q. Was anybody hit at that -- in that incident?
14 A. No, not that I know of.
15 Q. Did Wah-Luck know that it was Funky that was shooting
16 at him?
17 A. Yeah.
18 Q. What did Wah-Luck say in reference to Funky shooting
19 at him?
20 A. That he going to kill him. So when they got -- when
21 Wah-Luck and J.J. and them got back down there, Mush pulled
22 up in the car --
23 Q. Now who is Mush?
24 A. Funky brother. And Funky was in the passenger side
25 just sitting there. So Mush got out and came to the back of

48 (Pages 13911 to 13914)

Page 13971

1 A. Because we had a .9.
 2 Q. And when you say "we", are you talking about the same
 3 individuals that you just mentioned?
 4 A. Yeah.
 5 Q. How common was it for you to share or trade guns with
 6 the people that were with your group?
 7 A. I mean, we ain't really share. Everybody had their
 8 own gun. So I ain't really had to share. But a couple of
 9 times, I had to give my gun out because Squid -- he used to
 10 sell his guns a lot.
 11 And it was before I got locked up, I had gave him
 12 a Tec 9 and told him to hold it, go ahead and, you know --
 13 just in case anybody come because at the time I didn't need
 14 it. I was drinking, and I just got out so I didn't really
 15 want to really hold a gun. Then plus, I had to ride all the
 16 way back Upper Marlboro because that's where I was staying
 17 at.
 18 We went to the liquor store, came back, Squid had
 19 took my Tec 9 over 501 with him. And when I got --
 20 Q. What's 501?
 21 A. That's over -- Capers. Capers. That's the name. I
 22 think that's the name of the neighborhood. Capers. And
 23 when I went over there, I blew the horn. He was already out
 24 there. He seen me when I pulled up. So he popped out of
 25 nowhere, and I asked where that's at. He said he left it --

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1 telling Wah-luck I'm about to go. So I was like, man, I
 2 don't feel like riding all the way to Upper Marlboro. And I
 3 was like, man, you think them people going to run in my
 4 house. He was like, no, they shouldn't. So I went in the
 5 house, went to sleep; the next day, they ran in my house
 6 again and locked me up.
 7 Q. Police officers?
 8 A. Yeah.
 9 Q. Why did they run in your house this time?
 10 A. Because I shot out a hole in Keith.
 11 Q. All right. We're going to come back to that, okay.
 12 Before we get to Idaho and Keith, was there an
 13 occasion where Cooler gets shot in the leg -- a graze wound?
 14 A. Yeah.
 15 Q. Let me go back to that. Tell us about that. Where
 16 were you, who were you with, what happened, at that point?
 17 A. We was on Congress Place. Somebody told Wah-luck
 18 that Tweety and them supposed to come through. So me and
 19 him was like the only ones out there that had guns on us --
 20 Q. When you say "me and him", who are you talking about?
 21 A. Wah-luck. And so me and him walked up to Mush house,
 22 and --
 23 Q. Okay. Why are you going to Mush's house?
 24 A. So we can get the AK.
 25 Q. What is an AK?

Page 13972

1 Q. I'm sorry. You've got to say -- "where that's at?"
 2 A. Where -- I asked him, where that's at but I was
 3 talking about --
 4 Q. Let me stop you for a second. When you "where that's
 5 at", what does that normally mean?
 6 A. That was talking about the gun.
 7 Q. So when you say "where that's at", that's -- when you
 8 say that, you mean the gun?
 9 A. Yeah.
 10 Q. Okay.
 11 A. So he said he left it under the dirt bike that was in
 12 Blue yard. So I was like, all right. So he was like, give
 13 me something to drink. So I gave him something to drink and
 14 he drunk mostly all of it. I was mad at him. And then when
 15 I rode back around Congress and looked under the bike, it
 16 wasn't no gun under there. So I was like, Squid playing
 17 games. So --
 18 Q. Let me stop you. You went to Blue's yard to look for
 19 the gun.
 20 A. Right.
 21 Q. But it wasn't there?
 22 A. Right.
 23 Q. Okay. What happened after that?
 24 A. So I was like, Squid playing games. So I told Dune
 25 to get it for me. So I went over to talk to Wah-luck. I was

Page 13974

1 A. It's a gun that shoots over 20 times.
 2 Q. Is it a gun?
 3 A. It's a rifle.
 4 Q. Okay. And do you go up to Mush's house to get the
 5 rifle?
 6 A. We go up there and knock on the door. Mush come out
 7 front. We was telling Mush to let us see the rifle. He
 8 wasn't trying to let us see it, so I got on the phone,
 9 called my cousin Mussie, told him to come around because he
 10 supposed to come through. So he came around. He parked his
 11 car like down by my grandmother house and walked up. And --
 12 Q. Your grandmother's house on Alabama Avenue?
 13 A. Yeah. But he parked in the alley. He parked in one
 14 of the alleys. I don't remember what alley he parked down,
 15 but it was down by my grandmother house.
 16 Q. Okay. What --
 17 A. And so, at the time me and Wah-luck stood up by Mush
 18 house, Mussee walking towards -- coming up towards where we
 19 at. But before he get where we at, he stopped by the cut
 20 where Blue live at and my cousin Egg and Cheese -- and I
 21 think Brad was out there. So he was talking to Brad and Egg
 22 and Cheese, so --
 23 Q. What's Egg and Cheese's real name?
 24 A. Anthony Howard.
 25 (Whereupon, Government's Exhibit Number 36A18 was

63 (Pages 13971 to 13974)

Page 13975

1 marked for identification.)
 2 BY MR. QUANDER:
 3 Q. Let me show you what's been marked for identification
 4 as Government's Exhibit Number 36A18. Are you familiar with
 5 the person that's shown in 36A18?
 6 A. Yeah.
 7 Q. And who is that?
 8 A. That's Anthony Howard.
 9 Q. Egg and Cheese?
 10 A. Yeah.
 11 MR. QUANDER: Your Honor, at this time, the
 12 government moves into evidence 36A18.
 13 THE COURT: Received.
 14 (Whereupon, Government's Exhibit Number 36A18,
 15 previously marked for identification, was received into
 16 evidence.)
 17 BY MR. QUANDER:
 18 Q. So Muncee was talking to Egg and Cheese and --
 19 A. And Brad. And Tommy was talking to him. June and I
 20 think Pete and Tweety was coming through the cut.
 21 Q. Now, how do you know it was June, Tweety and Pete?
 22 A. Because when -- after the shooting and stuff, Muncee
 23 and Anthony said it was them.
 24 Q. Now are you present at --
 25 A. Anthony -- huh?

Page 13977

1 A. So --
 2 Q. And what's the one-way street?
 3 A. The one-way street is like off of 15th Place. It's
 4 like, you bear off -- it used to be a two-way but not it's a
 5 one-way.
 6 Q. Okay.
 7 A. So when me and Wah-luck heard the shots, we ran down
 8 the street where it was at, so we ran into Muncee and them,
 9 and that's when they was telling us. And then we walked
 10 back up the street.
 11 Q. Now who's the "we" at this time?
 12 A. Me, Muncee and Wah-luck.
 13 Q. And where are you heading at this time after shoot
 14 out with Egg and Cheese and Muncee and Tweety and Pete?
 15 A. Back to Mush house.
 16 Q. Do you get to Mush's house?
 17 A. Yeah. So we get to Mush's house. We stand on the
 18 front porch. So that's when, you know, we just -- we heard
 19 another -- we heard a rifle go off, like an AK. Then we
 20 heard a car at the top of Stanton Road, like it was -- the
 21 car came up Congress and did a drive-by.
 22 Q. Could you tell where that car was shooting at?
 23 A. It was shooting in Blue's court?
 24 Q. How do you know that?
 25 A. Because after they did it, we came down there. The

Page 13976

1 Q. -- I'm sorry. Are you physically located with Muncee
 2 and Egg and Cheese at this particular time?
 3 A. No.
 4 Q. Okay. Where are you?
 5 A. Me and Wah-luck still up at Mush house.
 6 Q. And how far away is that from where Muncee and Egg
 7 and Cheese and Brad are located?
 8 A. It's about -- I'd say about -- it's a lot of cuts.
 9 It's a lot of houses up.
 10 Q. Is it on the same street?
 11 A. It's on -- we on the same street. It's just -- we in
 12 the alley.
 13 Q. And what street are you on? What's the same street
 14 that you're on?
 15 A. Stanton Road.
 16 Q. So what happens as far as what Muncee and Egg and
 17 Cheese --
 18 A. Well, Egg and Cheese was like, who is that? They
 19 didn't say nothing. So he was like, you better say who you
 20 is. And they still ain't say nothing. So my cousin just
 21 started opening fire. They started opening fire back.
 22 So they ran down on the one-way street --
 23 Q. Who's "they"?
 24 A. Tweety, June and Pete.
 25 Q. Okay.

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1 ambulance and stuff was out there and found out that Cooler
 2 got shot in the leg.
 3 Q. So after there's gunshot that you hear -- is that
 4 correct? -- you're still up at Mush's, by Mush's house, is
 5 that correct?
 6 A. Correct.
 7 Q. What happens after you hear that gunshot down by
 8 Congress place? What's the next thing that happens?
 9 A. We got -- well, we was ready to run down there, but
 10 after the shots we heard the car stop at the stop sign, and
 11 I think it was a stick. And it made a left coming towards
 12 our way. So we just got ready for the car when it came up.
 13 When it came up, all of us just shot at the car and the car
 14 just kept going down Suitland Parkway.
 15 Q. When you say all of you shot at the car, do you
 16 recall what type of car it was that you shot at?
 17 A. It looked like it was Honda -- a four-door Honda.
 18 Q. And could you tell who was in the four-door Honda?
 19 A. No. I couldn't tell.
 20 Q. When you said "all of us shot at it," who are you
 21 referring to that shot at this four-door Honda as it came up
 22 Stanton Road?
 23 A. Me, Muncee and Wah-luck.
 24 Q. Do you know whether or not any of the shots that you
 25 fired -- you or Muncee or Wah-luck -- hit the car?

64 (Pages 13975 to 13978)

Page 13979

1 A. I don't know.
 2 Q. Do you know if anyone was injured?
 3 A. No. I don't know.
 4 Q. After the three of you fired at that car on Stanton
 5 Road, what did you do after that?
 6 A. What did we do? I think --
 7 Q. Where did you go?
 8 A. Well, I walked back -- we all walked back down the
 9 street the court.
 10 Q. And what court did you go to?
 11 A. To Blue's court. When we walked back to the court,
 12 they said Cooler just got grazed in the leg; he ain't get
 13 shot bad. So when we found out that he didn't get shot bad,
 14 everything was still like -- we sat right there and talked
 15 to his mother for a minute. And then that was that.
 16 Q. Now let me show you Government's Exhibit Number 4B2-
 17 1. Do you see Blue's court?
 18 A. Yeah.
 19 Q. Could you please put an X or a mark on Blue's court.
 20 A. (Witness complies.)
 21 Q. Okay. Where is Congress Place? Do you see the
 22 street there?
 23 A. Yeah.
 24 Q. Use your light pen and mark on your light pen the
 25 direction that that car took, where it stopped at the stop

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1 progressing. I talked with the attorneys and I think we're
 2 progressing satisfactorily. I expect that the government
 3 will be able to rest their case around August 1st or so,
 4 depending on the length of some of the cross-examination,
 5 which is beyond their control.
 6 After the government has rested, I'll meet with
 7 the defense counsel about their witnesses. They don't
 8 really have to disclose all that tomorrow until after the
 9 government has rested. Then I'll give you another estimate
 10 about how long the trial is going to go and that sort thing
 11 around the first part of August.
 12 But we're progressing satisfactorily. So just
 13 keep your patience and keep listening to the evidence. Have
 14 a nice night, and I'll see you at 9:30 tomorrow.
 15 Please don't listen to or read anything about the
 16 case. Seal your notes. I'll see you tomorrow.
 17 (Whereupon, the jury exits the courtroom.)
 18 MR. QUANDER: Your Honor, just a scheduling matter
 19 I need to bring to the Court's attention, but more
 20 appropriately to the defense counsel's attention.
 21 The government is planning to call Dr. Arden this
 22 week out of turn. He has a scheduling problem, and he may
 23 not be available when we would normally want to put him into
 24 testimony.
 25 It is anticipated that we may call on Wednesday of

Page 13980

1 sign and then turned up Stanton Road for me, please.
 2 A. (Witness complies.)
 3 Q. And what direction did it go on Stanton Road? Do you
 4 see Mush's house in this photograph, Government's Exhibit
 5 Number 4B2-1, Mush and Funky's house?
 6 A. Right here.
 7 Q. Okay.
 8 A. It like in this cut right here.
 9 Q. Where were you located when you, Muncy and Wah-luck
 10 opened fire on the blue Honda four-door as it came up
 11 Stanton Road? Were you -- what was your position? Were you
 12 standing firing? Were you kneeling? Were you down on your
 13 stomach? How were you positioned when you fired your
 14 weapon?
 15 A. I was down on my stomach. Muncy was standing up by
 16 the tree, and Wah-luck was standing up by the car. I know
 17 both of them was standing up. I was like laying down.
 18 Q. And you said that Cooler was not seriously injured?
 19 MR. QUANDER: Your Honor, would this be a good
 20 place to stop?
 21 THE COURT: All right. You can step down. Ladies
 22 and gentlemen, we'll resume tomorrow morning at 9:30.
 23 Please don't talk about the case with anyone.
 24 Let me say one thing to you. A couple of you were
 25 asking in the hallway the other day about how we're

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1 this week. He will offer testimony on the Anthony Payton,
 2 Damin Jennifer and Sherman Johnson murders. So I just want
 3 to alert defense counsel that he would be scheduled to come
 4 on Wednesday, so they can be prepared to cross-examine and
 5 ask questions. It is out of turn -- with the Court's
 6 permission.
 7 MR. SULLIVAN: And just so the defense is clear,
 8 only the Sherman Johnson murder will be a murder that we
 9 have not offered specific evidence on prior to Dr. Arden's
 10 testimony.
 11 MR. QUANDER: And possibly Damin Jennifer,
 12 depending on the length f the cross-examination. If I can
 13 get the rest of Damin Jennifer on -- it's going to be very
 14 brief -- I will do so. But there may be a possibility that
 15 there won't be any additional testimony other than what
 16 Thomas Sims testified to concerning the Damin Jennifer
 17 murder before Dr. Arden testifies.
 18 MR. BRODNAX: Your Honor, can --
 19 THE COURT: How much longer are you expecting the
 20 direct of this witness to go?
 21 MR. QUANDER: I think probably an hour, hour and a
 22 half at most.
 23 MR. BRODNAX: Your Honor, for scheduling purposes,
 24 is there any other cooperator coming between Damien Green
 25 and Dr. Arden?

65 (Pages 13979 to 13982)

Page 14028

1 A. Alabama Avenue.
2 Q. Okay. And did you have any contact with him when you
3 saw him?
4 A. I went over there, told him that I apologized for
5 shooting him in his legs. He said -- he accept my apology
6 and told me he ain't worry about it, he just want his legs
7 to heal up. I told him he know that that bullet wasn't
8 meant for him.
9 Q. Who was it meant for?
10 A. It was meant for Idaho. So he accept my apology and
11 that was that.
12 Q. Now let me ask you this. After running into Keith,
13 did there come a time when you ran into someone else that
14 was involved in that shooting that night?
15 A. I ran into Idaho. He was sitting in Derek's yard,
16 rolling up a blunt.
17 Q. What's a blunt?
18 A. It's a cigar with weed. You put weed in it,
19 marijuana.
20 Q. How much time had passed from when you shot him to
21 when you saw him sitting in the yard rolling up a blunt?
22 A. About two or three days.
23 Q. When it -- when you saw him, did that surprise you at
24 all?
25 A. Yeah.

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1 we take the car and either throw it away, like burn it,
2 something like that. So Blue say he can get one.
3 Q. And let me stop you. What neighborhood do you plan
4 to do your dirt in?
5 A. Congress Park and Stanton Terrace.
6 Q. Why both of those neighborhoods?
7 A. Because we was beefing with both neighborhoods.
8 Q. And so you needed this car to --
9 A. To get around.
10 Q. Okay. So how did it come about that y'all came into
11 possession of this car?
12 A. Blue called one of his friends from up Langston Lane,
13 named Sun-Sun, and Sun-Sun came and picked him up. They
14 went and stole a cab, came back.
15 Q. Now do you know whether or not Sun-Sun has any
16 special skills or any unique qualifications?
17 A. He steal cars for a living.
18 Q. Okay. And did -- was Blue and Sun -- were Blue and
19 Sun-Sun successful in getting a car?
20 A. Yeah. They came back probably I'd say about 30
21 minutes. They weren't even that long when he came back.
22 Q. And when they came back, what did they have?
23 A. They had a cab.
24 (Whereupon, Government's Exhibit Number 20B7 was marked
25 for identification.)

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1 Q. Why?
2 A. Because I thought he was dead.
3 Q. When you saw him, what did you do?
4 A. I looked at him, he looked at me. He had a grin on
5 his face. I ain't really had a grin on my face, I just was
6 so mad that I ain't kill him. So I had a gun on me. I
7 could have ran in the court and killed him, but there was
8 other people in the court, so I ain't want to do it, and
9 plus it was broad daylight.
10 Q. Did you ever try to kill him again?
11 A. No.
12 Q. Why not?
13 A. I got locked up down the line, it wasn't that long
14 before I got locked up.
15 Q. Did there come a time that you are aware of where an
16 individual known to you by the nickname of Blue came into
17 possession of a cab?
18 A. Yeah.
19 Q. Tell us about that.
20 A. It was on Congress Place. We needed a car to go --
21 to do our dirt in and --
22 Q. Wait a minute. You've got to break it down. When
23 you say do our dirt, what do you mean?
24 A. Far as I mean doing our dirt, we needed a car to ride
25 to their neighborhood and shoot up their neighborhood, and

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1 BY MR. QUANDER:
2 Q. Did -- let me show you what has been marked for
3 identify as Government's Exhibit Number 20B as in Boy 7.
4 Are you familiar with that photograph, sir?
5 A. Yeah.
6 Q. What is that?
7 A. That's the cab.
8 MR. QUANDER: Your Honor, at this time the
9 government moves into evidence 20B7.
10 THE COURT: I'm sorry, could you repeat the
11 number?
12 MR. QUANDER: Yes, I'm sorry. It's 20B as in Boy
13 7.
14 THE COURT: Received.
15 (Whereupon, Government's Exhibit Number 20B7, marked
16 for identification, was admitted into evidence.)
17 BY MR. QUANDER:
18 Q. The jury now can see what we've been talking about.
19 What is that?
20 A. That's the cab.
21 Q. How do you know about Blue calling Sun-Sun and Sun-
22 Sun coming down and, you know, they getting the cab and --
23 how do you know about that?
24 A. Because we was just talking about we need a car, and
25 Blue say he going to call this man Sun-Sun, Sun-Sun can get

10 (Pages 14028 to 14031)

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1 us a car. So they got a cab. It didn't matter what type of
2 car it really was, but they got a cab, and --
3 Q. Now did Blue say anything about the cab, any -- what
4 did he say about the cab, if anything?
5 A. The cab, knowing that it's a cab and the police see
6 us in a cab, they wouldn't think that we ready to do
7 something in the cab, and so when they came back with the
8 cab, I got in the driver's side. They wanted me to drive.
9 It was me, Blue, Wah-Luck and Dune. And I gave Dune a Tec
10 and --
11 Q. What's a Tec?
12 A. Tec .9.
13 Q. Okay.
14 A. And we all put on rubber gloves.
15 Q. Why did you put on rubber gloves?
16 A. For the fingerprints.
17 Q. What do you mean for the fingerprints?
18 A. So our fingerprints wouldn't be in the cab.
19 Q. Okay.
20 A. And then we rode around Congress Park.
21 Q. Let me show you what has been admitted into evidence
22 as Government's Exhibit Number 4B3-1. Are you familiar with
23 this photograph, sir?
24 A. Yeah.
25 Q. What is that a photograph of?

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1 Park in this cab?
2 A. No.
3 Q. Okay. Are other people in the cab armed as you go
4 through Congress Park?
5 A. Yeah.
6 Q. Who else is armed?
7 A. Blue and Wah-Luck.
8 Q. Are you looking for anyone in particular when you go
9 through Congress Park, or y'all just riding?
10 A. Yeah.
11 Q. Which is it?
12 A. We're looking for Tweety.
13 Q. Why would you expect Tweety to be in Congress Park?
14 A. Because that's where he was hanging at, plus he lived
15 down that way somewhere. He was hanging in Congress Park,
16 and he was hanging up Stanton Terrace. But his location was
17 Congress Park.
18 Q. So did y'all go down to Congress Park looking for
19 Tweety?
20 A. Yeah.
21 Q. What happened when you went down there, if anything?
22 A. We didn't see him. We rode through Congress Park,
23 and we seen like two or three other dudes in the car, but it
24 wasn't nobody that we was beefing with. They was from
25 around there. And we came back, parked the car in the alley

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1 A. Congress Park.
2 Q. Did you ride around Congress Park?
3 A. Say that again.
4 Q. Did you go to Congress Park?
5 A. Yeah.
6 Q. Okay. Now you mentioned a person that was with you,
7 did you say Dune?
8 A. Yeah.
9 Q. Do you know, is there a difference between Dune, D-u-
10 n-e, and Doom, D-o-o-m?
11 A. Yeah. Because Dune is my cousin.
12 Q. What's your cousin's name?
13 A. Dune. William.
14 Q. William?
15 A. Yeah.
16 Q. Okay. And do you know the name, the real name of
17 Doom, D-o-o-m?
18 A. No.
19 Q. Okay. But the person that's with you is your cousin?
20 A. Right.
21 Q. Dune? Right? D-u-n-e?
22 A. Correct.
23 Q. And his first name is William?
24 A. Correct.
25 Q. Okay. Are you armed, sir, when you go in Congress

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1 by Dune grandmother house. We got out and walked back on
2 Congress, and then we left the car in the alley. And that
3 was it.
4 Q. Who had the keys for the car, or were there keys for
5 the car?
6 A. No, it wasn't no keys for the car.
7 Q. How did you get the car started? How did it run?
8 A. You had to take a screwdriver and start it up.
9 Q. Did you know who the cab belonged to?
10 A. The cab belonged to either a Jamaican or a African.
11 Q. Why do you say that?
12 A. He had a lot of African tapes, reggae tapes in there.
13 Q. Y'all were playing his tapes?
14 A. Well, I took some of the tapes out of there and I had
15 the tapes, so that's how I knew it was either a African or a
16 Jamaican.
17 Q. So that was the type of music that was on the tape?
18 A. Type of music that was on the tapes.
19 Q. After that event, when the cab was stolen and y'all
20 ride around to the Congress Park, does there come a time
21 when something happens to the young man that is in front of
22 you right now?
23 A. Yes.
24 Q. And who is that?
25 A. Egg and Cheese.

11 (Pages 14032 to 14035)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :

Plaintiff :

v. :

Washington, DC :

ANTWUAN BALL, :

DAVID WILSON, :

GREGORY BELL, :

DESMOND THURSTON, :

JOSEPH JONES, :

DOMINIC SAMUELS, :

Defendants :

9:15 a.m. :

. :

VOLUME 59 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS,
UNITED STATES DISTRICT JUDGE, and a jury

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Proceedings reported by machine shorthand, transcript produced
by computer-aided transcription.

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By Ms. Wicks	--	13629	--	--
By Mr. Beane	--	13644	--	--

DETECTIVE OLIVER GARVEY

By Mr. Leon	13685	--	13750	--
By Mr. Martin	--	13719	--	--
Mr. Tabackman	--	13740	--	--

DAMIEN GREEN

By Mr. Guerrero	13763	--	--	--
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EXHIBITS

NUMBER	ADMITTED
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GOVERNMENT EXHIBIT:

400.2A	13690
400.2C	13690
400.2D	13690
400.2K	13690
400.2L	13690
400.3A - I	13716
400.3J	13707
400.3L - S	13707

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PROCEEDINGS

1 THE COURT: Good morning, ladies and gentlemen. Good
2 to have all of you here now. We're ready to resume.

3 Mr. Balarezo, any questions?

4 MR. BALAREZO: Good morning, Your Honor. No, thank
5 you.

6 THE COURT: Ms. Wicks?

7 MS. WICKS: Thank you, Your Honor.

8 CONTINUED CROSS EXAMINATION

9 BY MS. WICKS:

10 Q. Good morning, Mr. Carter.

11 A. Good morning.

12 Q. Now, Mr. Carter, I'm going to show you again
13 Government's 1231 that's in evidence.

14 MS. WICKS: May I approach, Your Honor?

15 THE COURT: Yes.

16 BY MS. WICKS:

17 Q. I'm showing you 1231. This is an exhibit that Mr. Leon
18 showed you yesterday. And this is the grand jury of Bradley
19 Carter on June 6th of 1994. That's what it says. Right?

20 A. Yes.

21 Q. Okay.

22 MS. WICKS: May I approach, Your Honor?

23 THE COURT: Yes.

24 BY MS. WICKS:

2 (Pages 13626 to 13629)

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1 about law enforcement, it's our understanding that the rule is
2 not limited to only law enforcement. A prior statement of
3 identification to a third party that's not a law enforcement
4 officer, that third party could still come in and say, "I spoke
5 to X; X told me that that person did the shooting," and that's a
6 prior statement of identification.
7 THE COURT: I'm not sure that I need to rule on
8 801(D)(1)(c), because based upon your proffer, the excited
9 utterance exception, assuming the facts come out as you say they
10 do, I think is satisfied.
11 MR. TABACKMAN: Your Honor, I would like to be heard on
12 that.
13 THE COURT: You have been heard on that. We've been up
14 here 20 minutes on that.
15 MR. ZUCKER: I have not been heard.
16 THE COURT: Come up.
17 MR. ZUCKER: What I just heard Mr. Guerrero to say was
18 that the witness went to the hospital, and then left the
19 hospital and went to Monkey Mark's house, and that part of the
20 reason he left was because he had a warrant out for him.
21 That implies reflection, which is exactly what would
22 undermine the excited utterance. He stopped, he reflected that
23 he had a warrant out. Therefore, he should not be at the
24 hospital, and it undermines his argument.
25 Additionally, and I'm not 100 percent certain on this,

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1 I think these locations are, if I'm not mistaken, a couple miles
2 apart, which would go to the time sequence.
3 So that's all I have to say.
4 THE COURT: You've made your record. I have ruled.
5 (END BENCH CONFERENCE.)
6 (DAMIEN GREEN, GOVERNMENT WITNESS, having been duly sworn,
7 testified as follows:)
8 DIRECT EXAMINATION
9 BY MR. GUERRERO:
10 Q. All right. Good afternoon, sir:
11 A. Good afternoon.
12 Q. I would like you to pull that mic nice and close to you. We
13 all want to hear you, okay?
14 A. All right.
15 Q. Tell us your first name and your last name, and spell each,
16 please.
17 A. Damien Green, D-A-M-I-E-N. Green, G-R-E-E-N.
18 Q. I would like you to speak a little bit louder for us. Okay?
19 How old are you, Mr. Green?
20 A. 30.
21 Q. Where were you born?
22 A. Southeast Community Hospital.
23 Q. Where were you raised?
24 A. Garfield.
25 Q. What's Garfield? Is that a neighborhood?

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1 A. Yeah.
2 Q. Where is Garfield, what quadrant of the city?
3 A. Stanton Road, 15th Place, Bruce Place.
4 Q. Do you have any brothers?
5 A. Yes.
6 Q. How many?
7 A. I have three brothers, one deceased.
8 Q. Do you have any sisters?
9 A. I have two sisters.
10 Q. When you were growing up, who did you live with?
11 A. Grandmother.
12 Q. And you said you lived in Garfield. And do you remember the
13 address where it was when you were growing up?
14 A. 1507 Bruce Place.
15 Q. Is that close to the intersection of 15th Place and
16 Congress?
17 MR. ZUCKER: Objection.
18 THE COURT: Sustained.
19 BY MR. GUERRERO:
20 Q. What are the intersections to Bruce Place?
21 A. It's across the street from Johnson.
22 Q. What's Johnson?
23 A. It's a high school.
24 Q. What ages do you think you lived over there on Bruce Place?
25 A. I would say until I was 12, 12 or 13.

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1 Q. And all that time did you live with your grandmother?
2 A. Yes.
3 Q. Who else lived with you and your grandmother?
4 A. My mother, brother, sister, uncles, cousin --
5 Q. I'm sorry, go ahead.
6 A. My cousin, that's it.
7 Q. Was that an apartment or a house?
8 A. It was a house.
9 Q. Did you go to school?
10 A. Yeah.
11 Q. Which elementary school did you go to?
12 A. Malcolm X.
13 Q. Did you go to middle school?
14 A. Yeah.
15 Q. Which middle school did you go to?
16 A. Johnson.
17 Q. Did you finish middle school?
18 A. No.
19 Q. Did you actually -- well, what was the last grade that you
20 finished?
21 A. Seventh.
22 Q. Say that again.
23 A. Seventh grade.
24 Q. Did you finish the seventh grade at Johnson or somewhere
25 else?

36 (Pages 13762 to 13765)

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<p>1 A. I was in Johnson in the seventh grade. I was in Special Ed, 2 but I had got kicked out of Johnson so they sent me to a private 3 school -- 4 MS. WICKS: Objection. Nonresponsive. 5 THE WITNESS: So they sent me to -- 6 THE COURT: I'll allow it. 7 BY MR. GUERRERO: 8 Q. If there's an objection, just pause. Okay? 9 Can you finish your answer now, please? 10 A. They sent me to a private school over next to CTF, over 11 there in Southeast, by D.C. Jail. 12 Q. Okay. CTF is part of the D.C. Jail? 13 A. Yeah. 14 Q. And what caused you to change schools from Johnson to that 15 other school? 16 A. Getting in trouble, fighting, got caught with a knife. 17 Q. How old were you then? 18 A. I was about 13, 14, something like that. 19 Q. And then when you went to this other school, do you happen 20 to know the name of that school that's by CTF? 21 A. Naw, I forgot the name of it. 22 Q. Did you finish the seventh grade? 23 A. No. 24 Q. Or did you move to the next grade? 25 A. No.</p>	<p>1 I wanted to break for lunch at this point. 2 Did you need to put one or two more questions? 3 MR. GUERRERO: No, sir. 4 THE COURT: Let's excuse the witness until 2:15, when 5 we'll resume. 6 Ladies and gentlemen, we'll break for lunch. It's 7 1:00 o'clock. Please come back at 2:15. Leave your notes in 8 the jury room, and please don't talk about the case. But enjoy 9 your lunch break. 10 (Jury out at 1:00 p.m.) 11 THE COURT: All right. We'll see you at 2:15. 12 (LUNCH Recess taken at 1:01 p.m.) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
Page 13767	Page 13769
<p>1 Q. And what happened that caused you not to finish seventh 2 grade? 3 A. Well, the school that I was going to, it was for kids that 4 got in a lot of trouble, and -- 5 MR. MARTIN: Objection on relevance, Your Honor. 6 THE COURT: I'll allow it. 7 A. They got in a lot of trouble. So if you get in trouble 8 there, they either give you medicine or shoot some medicine. It 9 was for kids that was in St. Elizabeth or group homes that was 10 going to that school. So I feel that I didn't need that. I 11 ain't need no medicine, so I stopped going. 12 Q. Did you ever get a GED? 13 A. No. 14 Q. Do you know what a GED is? 15 A. Yes. It's a -- well, I know it's a high grade for you. 16 Q. How is your reading? 17 A. Off and on. It used to be bad, but it's still a little 18 shaky. 19 Q. How is your writing? 20 A. Same thing. 21 Q. Have you taken any academic course work to improve your 22 reading or your writing? 23 A. Yes. 24 MS. WICKS: Objection. Relevancy. 25 THE COURT: I'll allow it. Although it's 1:00 o'clock.</p>	<p>1 CERTIFICATE OF OFFICIAL COURT REPORTER 2 3 I, Rebecca Stonestreet, certify that the foregoing is a 4 correct transcript from the record of proceedings in the 5 above-entitled matter. 6 7 8 9 10 SIGNATURE OF COURT REPORTER DATE 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

37 (Pages 13766 to 13769)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 Plaintiff, : Docket No. CR 05-100
 v. :
 :
 ANTUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : May 31, 2007
 DOMINIC SAMUELS, : 2:15 p.m.
 Defendants. :
 :
 :

VOLUME 59 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

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Proceedings reported by machine shorthand, transcript produced
 by computer-aided transcription.

Scott L. Wallace, RDR, CRR
Official Court Reporter

13773

1 AFTERNOON SESSION, MAY 31, 2007
 2 (2:13 p.m.)
 3 MR. TABACKMAN: Your Honor, just for the record, when the
 4 court is ready, we would ask simply with respect to Mr. Green
 5 that the Court do a voir dire on the issue of whether there's a
 6 foundation -- whether there's a proper foundation for the issue
 7 that we talked about at the bench just before lunch.
 8 THE COURT: Have you all discussed this?
 9 MR. GUERRERO: No, Your Honor, we have not, but we don't
 10 join in that request.
 11 THE COURT: Come on up.
 12 (Following sidebar discussion had on the record:)
 13 THE COURT: The lunch break was an hour and 15 minutes
 14 ago.
 15 MR. TABACKMAN: All I would ask the Court is I think there
 16 is -- I would ask that the Court conduct an out of the presence
 17 of the jury voir dire to see whether there is a sufficient basis
 18 for this witness to establish -- or if he can establish a
 19 foundation for an excited utterance testimony.
 20 THE COURT: Okay. That's denied.
 21 MR. TABACKMAN: Thank you.
 22 THE COURT: But I will direct the government to do that
 23 prior to eliciting the utterance.
 24 MR. GUERRERO: Understood.
 25 THE COURT: All right. Are you ready for the jury?

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1 MR. GUERRERO: Yes, Your Honor, we are.
 2 (Jury in at 2:19 p.m.)
 3 THE COURT: Good afternoon, ladies and gentlemen.
 4 THE JURY PANEL: Good afternoon.
 5 THE COURT: Welcome back. We're ready to resume.
 6 Mr. Guerrero.
 7 MR. GUERRERO: Thank you, Your Honor.
 8 CONTINUED DIRECT EXAMINATION OF DAMIEN GREEN
 9 BY MR. GUERRERO:
 10 Q. Okay. Good afternoon, sir.
 11 A. Good afternoon.
 12 Q. I think we left off talking about your reading and
 13 writing. And I think I asked you last whether you've been
 14 taking any courses to improve your reading or writing.
 15 A. Yes.
 16 Q. Okay. Let me ask you, Mr. Green, to tell us that -- what
 17 you were doing once you dropped out of school. Did you work at
 18 all?
 19 A. I worked a summer job, a couple of summer jobs.
 20 Q. And again, how old were you when you dropped out of the
 21 seventh grade?
 22 A. About 13 or 14.
 23 Q. Were you doing anything else to get income?
 24 A. Yes.
 25 Q. What were you doing?

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1 A. Selling drugs.
 2 Q. What kind of drugs?
 3 A. Cocaine, marijuana.
 4 Q. Where would you sell those drugs?
 5 A. 15th Place, Stanton Road, Bruce Place.
 6 MR. GUERRERO: If we can pull up Government's Exhibit
 7 103.1, marked and admitted.
 8 BY MR. GUERRERO:
 9 Q. Can you see 103.1 up on the monitor?
 10 A. Yes.
 11 Q. And do you recognize what it shows?
 12 A. Yes.
 13 Q. What does it show?
 14 A. It shows my neighborhood.
 15 Q. Can you --
 16 MR. GUERRERO: May I approach, Your Honor?
 17 THE COURT: Yes.
 18 BY MR. GUERRERO:
 19 Q. Okay. Mr. Green, I've just handed you a pen. And please
 20 don't put the ink portion out, just with the pointer, can you
 21 see where you -- the house your grandmother was?
 22 A. Yes.
 23 Q. Point it out for us.
 24 A. (Indicating.)
 25 Q. And you just marked on Government's Exhibit 103.1 a line

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1 on top of Alabama Avenue at the intersection of Alabama Avenue
 2 and 15th Place. Did I say that right?
 3 A. Yes.
 4 Q. And where was it that you started, back at the age of 13
 5 or 14, selling your drugs? Can you see that here?
 6 A. Yes. 15th Place.
 7 Q. And is that the 15th Place that's displayed right now,
 8 right in the center of 103.1?
 9 A. No, it's up some.
 10 Q. A little bit further north?
 11 A. Yes.
 12 Q. Okay. Let me ask you, when you were selling your drugs
 13 out there, what year do you think that was?
 14 A. I was selling drugs from 1990 all the way up to the day I
 15 got locked up.
 16 Q. And when did you get locked up?
 17 A. '96.
 18 Q. And since 1996, where have you been? Without telling us
 19 a location, have you been free or you been locked up?
 20 A. I've been locked up.
 21 Q. So let's focus, then, between 1990 and 1996, okay?
 22 A. Right.
 23 Q. Between '90 and '93, what kind of weight were you selling
 24 back then?
 25 A. Just 50s, dimes, 20s. It wasn't really no weight.

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1 Q. \$50 worth?
 2 A. Yes.
 3 Q. Dimes is how much?
 4 A. \$10.
 5 Q. And 20s is how much?
 6 A. \$20.
 7 Q. And what kind of drugs are we are talking about?
 8 A. Cocaine.
 9 Q. Did there come a point like in 1993 when you started to
 10 do a little bit more than just selling crack cocaine?
 11 MS. WICKS: Objection, leading.
 12 THE COURT: Overruled.
 13 THE WITNESS: Yes.
 14 BY MR. GUERRERO:
 15 Q. And what kind of things would you get into, back starting
 16 in 1993?
 17 A. Eight-balls, selling PCP, quarters. I started moving up.
 18 Q. And did you carry guns around, starting that time?
 19 A. Yes.
 20 Q. Let's focus now between '93 to '96. And I want you to
 21 focus first on the early parts of '93. Who would you see
 22 selling crack cocaine out there in addition to you?
 23 A. That hung with me?
 24 Q. Yes.
 25 A. Jay-Jay, Squid, Mark, Honkey, Cooler, Doom, Day-Day.

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1 Q. Okay. Go a little bit slower for us. We're trying to
2 get them all. Day-Day?
3 A. Doom, Day-Day, Troy Black, Randy, Suiterman, Raymond,
4 Tall Eric, Man, Black, Brad. It's a lot. I can't think no
5 more.
6 Q. All right. Let's break them down a little bit. Who's
7 Jay-Jay?
8 A. Jay-Jay?
9 Q. Do you know his first name and last name?
10 A. It's James Faison.
11 Q. And how long did you know James Faison back then in '93?
12 A. I knew him since around -- since '87, '88.
13 Q. You mentioned Black?
14 A. Black.
15 Q. Did you know what Black's real name was?
16 A. I think Maurice Willis.
17 Q. And how long did you know Black or Maurice Willis back in
18 '93?
19 A. I knew him since, I'd say, '89.
20 Q. How about Brad? Mentioned someone named Brad?
21 A. Yeah.
22 Q. Do you know Brad's last name?
23 A. Carter.
24 Q. And did Brad have a nickname?
25 A. B-Love.

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1 MR. ZUCKER: I'm sorry. I couldn't hear the nickname.
2 THE WITNESS: B-Love.
3 BY MR. GUERRERO:
4 Q. How long did you know Brad Carter back then in '93?
5 A. I knew Brad, I think, since 1990. 1990.
6 Q. You also mentioned Tall Eric?
7 A. Yeah.
8 Q. And do you know Tall Eric's last name?
9 A. I know -- I just can't remember right now. Dang, I
10 forgot his name. I can't remember. I can't remember right now.
11 Q. Do you know what the term "One-Five mob" means?
12 A. Yeah.
13 Q. What does it mean to you?
14 A. It means, it mean a group. It mean our neighborhood.
15 Q. And who do you associate with One-Five mob from your
16 neighborhood?
17 A. Jay-Jay, Squid, Tall Eric.
18 Q. Nice and loud.
19 A. Jay-Jay, Squid, Tall Eric, Black, Brad, Wal Luck.
20 Q. Wal Luck, Blue?
21 A. Blue. That's it. Monkey Mark.
22 Q. Did you say Monkey Mark?
23 A. Monkey Mark.
24 Q. "Monkey" as in the animal, monkey?
25 A. Yeah.

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1 Q. And then the name Mark?
2 A. Mark.
3 Q. Let me run some names by you and tell me if you know who
4 these people are. Did you ever know a person that went by the
5 nickname Tec?
6 A. Yeah.
7 Q. And how did you know that person?
8 A. He grew up in my neighborhood, too.
9 Q. Is that a person that you associated with One-Five?
10 A. Yes.
11 Q. How about Tommy Edelin?
12 A. Yes.
13 Q. How did you know Tommy?
14 A. He grew up in our neighborhood, but he lived in Stanton
15 Terrace.
16 Q. Is that a person you associated with One-Five?
17 A. Yes.
18 Q. You said Squid --
19 A. Yes.
20 Q. -- earlier. And how did you know Squid?
21 A. I knew him all my life.
22 Q. Is that a person that you associated with One-Five?
23 A. Yes.
24 Q. Now, during that time period between '93 and '96, did you
25 get in some trouble yourself with the law?

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1 A. Yes.
2 Q. And are you the same Damien Green who was convicted of
3 possession of cocaine and possession of PCP in case number J
4 4452-94?
5 A. Yes.
6 Q. Also unregistered gun in 1966, M-6967-96?
7 A. Yes.
8 Q. And assault with intent to kill in 1996, Felony 7803-96?
9 A. Yes.
10 Q. How about yourself? Were you a member of One-Five?
11 A. Yes.
12 Q. And do you have a nickname?
13 A. Yes.
14 Q. What's your nickname?
15 A. O-Face.
16 Q. Why do they call you O-Face?
17 A. Uh --
18 MS. WICKS: Objection.
19 THE COURT: Why don't you rephrase.
20 BY MR. GUERRERO:
21 Q. Is there a reason why you were called O-Face?
22 A. Yeah. Jay-Jay and Mark gave me that name.
23 MS. WICKS: Objection.
24 THE COURT: Overruled.
25 BY MR. GUERRERO:

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1 Q. Now, around that time period, did you get to know a
 2 person that went by the nickname Wop?
 3 A. Wop? Yes.
 4 Q. And how did you know that person Wop?
 5 A. We went to school together. We hung around each other a
 6 couple of times.
 7 Q. And did you see this person -- what did you know that
 8 person by, their nickname?
 9 A. Cootie.
 10 Q. Say that again?
 11 A. Cootie.
 12 Q. Cootie?
 13 A. Yeah.
 14 Q. Did you know Cootie's real name?
 15 A. No.
 16 Q. And where would you see Cootie back then in '93 to '96?
 17 A. '93 to '96? Well, '93, he was hanging around his
 18 neighborhood.
 19 Q. So let's start before that, then, before 1993. Let's go
 20 '90 to '93. Where would you see this person Cootie?
 21 A. From '90 to '93, he used to hang in the community center
 22 on 15th Place.
 23 Q. Did you see him there personally?
 24 A. Yes.
 25 Q. And did you ever see him in the neighborhood of where you

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1 were living?
 2 A. Yes.
 3 Q. And if you saw this person again, could you identify the
 4 person?
 5 A. Yes.
 6 Q. Okay. Why don't you stand up for us and tell us if you
 7 see that person that you know as Cootie in the courtroom today.
 8 A. The guy over there with the light blue tie on, on the
 9 end.
 10 Q. What's the color of the shirt?
 11 A. White.
 12 Q. Is he seated next to somebody that you also recognize?
 13 A. Yes.
 14 Q. And who is he seated to that you also recognize?
 15 A. Antwuan.
 16 Q. And what's Antwuan wearing?
 17 A. He's wearing a white shirt with a blue and -- look like a
 18 gray tie.
 19 Q. How about the hair on Antwuan?
 20 A. Plats.
 21 MR. GUERRERO: Your Honor, I note for the record an
 22 in-court identification of Antwuan Ball and Mr. Wilson.
 23 MS. WICKS: No objection, Your Honor.
 24 MR. TABACKMAN: No objection.
 25 THE COURT: Request is granted.

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1 BY MR. GUERRERO:
 2 Q. Now, you said that you saw Cootie in the neighborhood
 3 where you live with your grandmother. Did you ever see where
 4 Cootie was going in that neighborhood?
 5 A. Sometimes he just come up there. Sometimes he come and
 6 see people up there. Sometime he come up there just to holler
 7 at people on 15th, guys that he was cool with. Or he might come
 8 up there -- his grandmother live up there, too.
 9 Q. Cootie's grandmother lived in that neighborhood?
 10 A. Yes.
 11 Q. And can you see where Cootie's grandmother used to live?
 12 A. His grandmother used to live right here (indicating).
 13 Q. So you've pointed to 103.1, a little bit north of where
 14 you indicated your grandmother lived, at the intersection of
 15 Alabama and 15th Place?
 16 A. Yes.
 17 Q. And what kind of relationship did you have, if any, with
 18 Cootie back then, '90 to '93?
 19 A. We was okay. We was cool. We was all right.
 20 Q. And how about Antwuan? You said that that's a person
 21 that you recognized --
 22 A. Yes.
 23 Q. -- here in court. Did you know Antwuan back in '90 to
 24 '93?
 25 A. Yes, I knew him.

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1 Q. Did you ever come in contact with him?
 2 A. No. Me and Antwuan wasn't on friendly -- we wasn't
 3 friendly. Back then if I see him, I speak to him or something
 4 like that, but I never hung with him or deal with him or nothing
 5 like that.
 6 Q. In '90 to '93, during that time period, did you ever see
 7 Cootie sell any drugs?
 8 MS. WICKS: Objection to leading.
 9 THE COURT: Sustained.
 10 THE WITNESS: Uh --
 11 THE COURT: That means you can't answer.
 12 BY MR. GUERRERO:
 13 Q. What kind of things did you see Cootie do back in '90,
 14 '93?
 15 A. Between '90, '93, we all hung around the center. I never
 16 actually --
 17 MS. WICKS: Objection, non-responsive.
 18 THE COURT: Overruled.
 19 BY MR. GUERRERO:
 20 Q. Let me -- you can finish your answer. Go ahead.
 21 A. I never actually seen him sell drugs in front of the
 22 center or nothing like that, but --
 23 Q. Okay. Let me just pause you right there. What's the
 24 center that you're talking about? Can you see it on the
 25 exhibit?

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1 A. Yes.
 2 Q. Point it out for us so we know where you're talking
 3 about.
 4 A. (Indicating.)
 5 Q. All right. And you made another mark on 103.1, further
 6 north on 15th Place, right before the number "1" on 15th Place,
 7 right?
 8 Is that right?
 9 A. Yes.
 10 Q. All right. Did there come a time when you knew Cootie
 11 back between 1990 to '93 where you were playing basketball and
 12 you encountered him?
 13 A. Yes.
 14 Q. And what year do you think that was?
 15 A. That was in '93.
 16 Q. And tell us about what happened then.
 17 A. Well, we was playing basketball and he came down the
 18 alley on a bike.
 19 Q. Let me pause you right there. Where were you playing
 20 basketball?
 21 A. On 15th Place.
 22 Q. Who were you playing basketball with?
 23 A. I don't remember who was playing with me. I can't
 24 recall.
 25 Q. You said you saw Cootie come down on a bike?

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1 A. Yeah.
 2 Q. And what happened?
 3 A. He came down on a bike. I had my sweatshirt on top of a
 4 pole. It was a '93 Polo shirt. And everybody spoke to him and
 5 then we finished playing and then I turned around and he had
 6 took the sweatshirt off the pole.
 7 MS. WICKS: Objection.
 8 BY MR. GUERRERO:
 9 Q. Who took the sweatshirt off the pole?
 10 THE COURT: Hold on. There's an objection, I think.
 11 Did you object?
 12 MS. WICKS: Yes. May we approach?
 13 THE COURT: Yes.
 14 (Following sidebar discussion had on the record:)
 15 MS. WICKS: Your Honor, this is a narrative, but it also
 16 sounds like he's turning around and I don't think he saw what
 17 he's going to say happened. That's my concern.
 18 THE COURT: Okay. I'm not going to guess what he did or
 19 didn't see, but the question was: What happened? I'll let him
 20 tell what happened.
 21 (Sidebar discussion concluded.)
 22 BY MR. GUERRERO:
 23 Q. All right. You were about to say that when you turned
 24 around, what did you see?
 25 A. I seen Cool Wop.

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1 Q. And what did you see Cool Wop do?
 2 A. He was taking my sweatshirt off the pole.
 3 MS. WICKS: Objection.
 4 THE COURT: Overruled.
 5 BY MR. GUERRERO:
 6 Q. What did you do?
 7 A. I looked at him and he stopped. He took off on the bike.
 8 And I started coming towards the alley, because the basketball
 9 court is next to the alley, so I was going towards where he took
 10 the sweatshirt off the pole at. And he turned around and
 11 stopped and lifted his shirt up and showed me that he had a gun.
 12 Q. Who turned around and stopped?
 13 A. Cool Wop.
 14 Q. And when Cool Wop lifted up his shirt, what did you see?
 15 A. I seen a gun.
 16 Q. What kind of gun?
 17 A. It look like a revolver, like a .38 or something.
 18 Q. Where did you see the gun on Cool Wop's person?
 19 A. It was on his waist.
 20 Q. What did you do then?
 21 A. I just said, "Okay."
 22 Q. Did you have anything?
 23 A. Naw.
 24 Q. Did you try to get the sweatshirt back?
 25 A. Naw.

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1 Q. Why not?
 2 A. Because I ain't have no gun.
 3 Q. Did you know a person named Reeseey?
 4 A. Yes.
 5 Q. And did there -- just yes or no, did there come a point
 6 in time when you learned that Reeseey had died?
 7 A. Yes.
 8 Q. And after -- when do you think that was? What year do
 9 you think that was?
 10 A. 1993.
 11 Q. After that happened, do you recall being over by the rec
 12 center with Squid?
 13 MS. WICKS: Objection to leading, Your Honor.
 14 THE COURT: Overruled.
 15 THE WITNESS: Yes.
 16 BY MR. GUERRERO:
 17 Q. And did an incident happen over at that rec center?
 18 A. Yes.
 19 Q. Who were you with then?
 20 A. It was me, Squid and Tony.
 21 Q. And how much after Reeseey's death did this encounter
 22 happen?
 23 A. Around two or three weeks.
 24 Q. And were you in a car or were you walking?
 25 A. Naw, we was standing on the front porch.

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1 Q. Is this the same rec center that you pointed at for us on
 2 Government's Exhibit 103.1?
 3 A. Yes.
 4 Q. And what happened? Tell us.
 5 A. We was standing out there and Tony had just pulled up and
 6 Antwuan pulled -- came down 15th. He was driving in a brown van
 7 and he had stopped for Tony. Tony had started walking across
 8 the street TOWARD his van to talk to him.
 9 Q. Let me pause you right there. Who's Tony?
 10 A. Tony is Tommy's father.
 11 Q. What's Tommy's last name?
 12 A. Edelin.
 13 Q. All right. So you were about to tell us, what happened
 14 then?
 15 A. So Tony walked towards the van and Squid had hollered to
 16 Antwuan.
 17 Q. Did you hear that?
 18 A. Yeah.
 19 Q. And without telling us what Squid said, did you see
 20 Antwuan react in any way?
 21 A. Yeah.
 22 Q. And what did you hear Antwuan say, if anything?
 23 A. He said -- excuse my language -- he said, "Fuck, naw.
 24 You killed my man."
 25 Q. When Antwuan said, "Fuck, naw, you killed my man," who

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1 was Antwuan talking to, that you heard?
 2 MR. TABACKMAN: Objection --
 3 THE WITNESS: Squid.
 4 MR. TABACKMAN: -- speculation.
 5 THE COURT: Overruled.
 6 BY MR. GUERRERO:
 7 Q. And did you come to an understanding, what Antwuan was
 8 talking about?
 9 A. Yeah.
 10 Q. What did you think Antwuan was talking about?
 11 MR. MARTIN: Objection, speculation.
 12 MR. TABACKMAN: And relevance as to what he thought.
 13 MR. GUERRERO: It goes to his understanding, state of
 14 mind, Judge.
 15 THE COURT: Of what?
 16 MR. TABACKMAN: And what relevance, as to what he --
 17 THE COURT: I've asked him a question.
 18 MR. TABACKMAN: I didn't understand. I thought you were
 19 talking to me.
 20 MR. GUERRERO: Nothing further, Judge. I'll move on.
 21 BY MR. GUERRERO:
 22 Q. Did you see Squid do anything?
 23 A. Squid said, "Well, fuck you, then." Excuse my language.
 24 MS. WICKS: Objection.
 25 BY MR. GUERRERO:

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1 Q. Did you notice any further interaction?
 2 THE COURT: Overruled.
 3 THE WITNESS: Huh?
 4 BY MR. GUERRERO:
 5 Q. Did you notice any further interaction?
 6 A. Squid was upset.
 7 MS. WICKS: Objection, non-responsive.
 8 THE COURT: Overruled.
 9 BY MR. GUERRERO:
 10 Q. Did you do anything?
 11 A. No.
 12 Q. Now, you talked about you had known Cootie or Cool Wop
 13 between '90 to '93 and then you -- this incident happened with
 14 Antwuan over at the rec center. Did your relationship with
 15 Cootie change or remain the same after that incident?
 16 A. Well, our relationship changed once Reeseey got killed.
 17 Q. And when you say "our relationship," who are you talking
 18 about?
 19 A. I'd say all of us. Squid, Antwuan, all of us.
 20 MR. TABACKMAN: Objection, 602.
 21 MS. WICKS: Objection.
 22 THE COURT: Sustained.
 23 BY MR. GUERRERO:
 24 Q. I'll be more specific. Specifically between you and
 25 Antwuan --

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1 MR. ZUCKER: Objection.
 2 MR. GUERRERO: I'll withdraw that question. Let me
 3 rephrase. I'll withdraw that question.
 4 BY MR. GUERRERO:
 5 Q. Specifically between you and Cootie or Cool Wop --
 6 MS. WICKS: Objection.
 7 BY MR. GUERRERO:
 8 Q. -- did your relationship with him and -- Cootie and you
 9 change or remain the same?
 10 THE COURT: Overruled.
 11 THE WITNESS: Yes.
 12 BY MR. GUERRERO:
 13 Q. Yes, what?
 14 A. Yes, it changed.
 15 Q. Okay. And how about Antwuan Ball? You said you had
 16 known him also between '90 and '93, maybe said "Hello" to him
 17 and that was it. Did your relationship, you personally with
 18 Antwuan Ball, change after this incident over at the rec center?
 19 MR. TABACKMAN: Objection, leading, and objection --
 20 THE COURT: Overruled.
 21 THE WITNESS: Yes.
 22 BY MR. GUERRERO:
 23 Q. Yes, what?
 24 A. It changed.
 25 Q. All right. Now, let's talk about that for a little bit.

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1 Before we talk about that -- we'll get to that in a
2 second -- did you also get into a bit of some trouble yourself
3 in criminal case 98072-01, where you pled guilty to conspiracy?
4 **A.** Yes.
5 **Q.** And do you remember what you pled guilty to?
6 **A.** Attempted murder. I think it was like three attempted
7 murders and drugs.
8 **Q.** And was that in relation to your activities in One-Five?
9 **A.** Yes.
10 **Q.** And do you recall -- you said you'd been locked up since
11 1996. Is that the reason you've been locked up?
12 **A.** Yes.
13 **Q.** What was the sentence that you received as a result of
14 that conspiracy case?
15 **A.** I got five to 15 for attempted murder in Superior Court
16 and I got eight years in Federal Court.
17 **Q.** All right. So the five to 15, is that what you were
18 referring to when I asked you earlier if you had an assault with
19 intent to kill in Felony 7803-96?
20 **A.** Yes.
21 **Q.** Do you know who your judge was there?
22 **A.** It was, I think, Judge Burgess.
23 **Q.** And then in addition to that, you said you got eight
24 years for the federal case. Is that the conspiracy case?
25 **A.** Yes.

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1 **Q.** And again, without telling us where you are now, have you
2 been in prison as a result of both of those sentences?
3 **A.** Yes.
4 **Q.** And let's focus first with the federal case, the
5 conspiracy case. Have you completed or do you still have more
6 time to serve on that sentence?
7 **A.** Naw, I'm finished.
8 **Q.** How much total prison time have you served so far up to
9 this date?
10 **A.** Ten and a half years, almost 11.
11 **Q.** And you mentioned that you had 5 to 15 on that assault
12 with intent to kill?
13 **A.** Yes.
14 **Q.** Are you finished or do you still have more time to serve
15 on that case?
16 **A.** I have five years left.
17 **Q.** Do you have any cooperation agreement with the United
18 States right now as you're testifying?
19 **A.** No.
20 **Q.** Do you know what a cooperation agreement is?
21 **A.** It's something that you promise me.
22 **Q.** Did you ever enter into a cooperation agreement before in
23 your own federal case?
24 **A.** Yes.
25 **Q.** And is your cooperation done?

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1 **A.** Say that again. 13796
2 **Q.** Is your cooperation done, as far as you understand it, in
3 that cooperation agreement?
4 **A.** Yes.
5 **Q.** But yet you're testifying here now, right?
6 **A.** Yes.
7 **Q.** And are you expecting to receive anything in exchange for
8 your testimony?
9 **A.** Well, it's basically taking a chance. I'm hoping for
10 something and if -- it's up to the parole, it's up to the judge.
11 It's the only thing I can hope for.
12 **Q.** Well, let's talk about that for a second. You said,
13 "It's up to the parole." Are you talking about the Parole
14 Board?
15 **A.** Yes.
16 **Q.** And have you appeared before the Parole Board already?
17 **A.** Yes.
18 **Q.** Have you ever received letters from the government on
19 your behalf --
20 **A.** Yes.
21 **Q.** -- submitted to the Parole Board?
22 **A.** Yes.
23 **Q.** How many have you gotten?
24 **A.** Two.
25 **Q.** Do you remember who the lawyers were who gave those

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1 letters on your behalf? 13797
2 **A.** Steve Phleger and Ms. Ann Petalas.
3 **Q.** Nice and loud.
4 **A.** Ms. Ann Petalas.
5 **Q.** Let's talk about the first one, Steve Phleger.
6 **A.** Yes.
7 **Q.** When you appeared before the Parole Board, what happened
8 that first time when you got that letter from Steve Phleger?
9 **MR. TABACKMAN:** I object, Your Honor, as to the relevance
10 of the result, what happened as a result as opposed to the letter
11 being written.
12 **MS. WICKS:** Exception.
13 **MR. MARTIN:** Exception.
14 **THE COURT:** Overruled.
15 **THE WITNESS:** Say that again.
16 **BY MR. GUERRERO:**
17 **Q.** When you got that first letter from Mr. Phleger and you
18 appeared before the Parole Board, what happened?
19 **A.** I went to the Parole Board and they gave me a three-year
20 hit.
21 **Q.** Even though you got the letter from the government?
22 **MR. ZUCKER:** Objection to the form.
23 **THE COURT:** Sustained.
24 Hold on. When there's an objection, I need to hear it and
25 rule on it before you answer. Okay?

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1 THE WITNESS: Okay.

2 BY MR. GUERRERO:

3 Q. Did you present the letter to the Parole Board that you

4 had gotten from Mr. Phleger?

5 A. Yes.

6 Q. How about when you got the letter from Ms. Ann Petalas?

7 When was that?

8 A. That was last year.

9 Q. And did you present that letter to the Parole Board?

10 A. Yes.

11 Q. And what happened when you went to the Parole Board with

12 that letter?

13 A. I got a three-year hit.

14 Q. Now, as you sit here today, do you still want something

15 from the government?

16 A. Yes.

17 Q. And what would you like from the government?

18 A. I would like to have another letter. I would like to

19 have a letter to go to Judge Burgess, who gave me the time, to

20 try to reduce my last five years. That's it.

21 Q. And have you asked me personally to submit those letters

22 on your behalf?

23 A. Yes.

24 Q. And what's your understanding, even if I do submit those

25 letters on your behalf? Who has the ultimate call on what the

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1 ultimate outcome of your sentence is going to be?

2 A. The judge and parole.

3 Q. Have I promised you anything that the Parole Board would

4 do, even if I offer you a letter?

5 A. No.

6 Q. Have you received any promises from us as to what Judge

7 Burgess might do if we submit a letter?

8 A. No.

9 Q. So why are you testifying now, then?

10 A. Well, I'm trying to help myself. I already testified

11 once, so really, testifying on these brothers over here, it's

12 just the same thing. I had to testify on the guys that I hung

13 with, so now I got to testify on the guys that we was beefing

14 with.

15 Q. Now, let's talk about that beef. I want to take you back

16 to like 1994, so when you were at Monkey Mark's house. Do you

17 recall being there?

18 A. Yes.

19 Q. And who do you recall being in Monkey Mark's house then?

20 A. I'd say Mark, Honkey, A.D., me, Jay-Jay.

21 Q. What were you doing?

22 A. In there drinking, smoking, playing a game.

23 Q. Did there come a point when some of the guys left?

24 A. Yes.

25 Q. And who do you recall seeing leaving?

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1 A. It was Black, Travis, Brad and Pooh.

2 Q. All right. Black. Is that the same Maurice Willis you

3 talked about earlier?

4 A. Yes.

5 Q. Brad. Is that Bradley Carter?

6 A. Yes.

7 Q. Pooh. Who's that?

8 A. Pooh, we used to call him -- I think his nickname was

9 Bread or -- I know we used to call him Bread, too. He went to

10 school with me at Malcolm X.

11 Q. Do you know Pooh or Bread's true name?

12 A. No.

13 Q. And Travis. Who's that?

14 A. Travis -- I forgot Travis's real name. He from around

15 the way, too.

16 Q. What time do you think they left?

17 MR. TABACKMAN: Your Honor, can we get a date or some part

18 of 1994?

19 BY MR. GUERRERO:

20 Q. Let me ask you --

21 A. I don't know what time it was. It was late, maybe.

22 Q. Let me pause you right there, Mr. Green. Let me

23 establish a little bit more.

24 When do you think this happened in '94?

25 MR. MARTIN: Objection, form of the question, Your Honor.

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1 Leading.

2 THE COURT: Overruled.

3 THE WITNESS: This was, I'd say, during the wintertime.

4 During the wintertime.

5 BY MR. GUERRERO:

6 Q. Okay. And do you recall whether it was day or night when

7 these guys left?

8 A. It was at night.

9 Q. Did you see them leaving?

10 A. Yes.

11 Q. And how did you see them leave?

12 A. They was in the alley where Brad live at and Mark live at

13 and they was going -- they was supposed to be going to the

14 liquor store. I had gave Black some money to bring me some

15 beers back and they left, so I went back in Mark house.

16 Q. Did you see how it was that these guys left, walking or

17 in a car?

18 A. They was in a car.

19 Q. Do you remember what kind of car it was?

20 A. I think it was a Maxima.

21 Q. Do you remember the color?

22 A. I don't know if it was gold, champagne, it was something

23 like that. Beige, one of them.

24 MR. GUERRERO: If we can pull up 400.2 L, Mr. Mazzitelli.

25 BY MR. GUERRERO:

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1 Q. You can clear the screen there if you touch the lower
2 right-hand corner there where it says "Clear screen." Just try
3 touching the lower right-hand corner. Point to it.
4 A. (Complied.)
5 Q. There you go.
6 MR. GUERRERO: Ms. Romero, can we just -- all right.
7 400.2 L, I believe marked and admitted. Can we publish up
8 on the screen?
9 BY MR. GUERRERO:
10 Q. Do you see 400.2 L that I just passed up to you?
11 A. Yes.
12 Q. And does that car look similar to the car that you saw
13 the guys leave in?
14 A. Yes.
15 Q. All right. When the guys left, how long were they gone
16 for?
17 A. I'd say about 30 -- 30 minutes. 30, 45 minutes.
18 Q. And where did you go?
19 A. I went back inside Mark house.
20 Q. And after the 30 minutes, did something catch your
21 attention?
22 A. We was inside Mark house and Brad came to the window and
23 he was like --
24 Q. Let me pause you right there. When Brad came to the
25 window, did you see Brad?

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1 A. Yes.
2 Q. And where were you when you saw Brad?
3 A. I was in Mark house.
4 Q. Were you looking out the window?
5 A. Naw. We was -- his room is on the ground floor, so when
6 somebody come to the window. It's right there.
7 Q. Okay. Did you see Brad out the window?
8 A. Yes.
9 Q. And without telling us what Brad was saying at that
10 point, just describe his physical demeanor. How was he acting?
11 A. He was hyped, like his blood -- he was just --
12 (indicating), like he was just running.
13 Q. What does "hyped" mean?
14 A. It mean that your blood is flowing.
15 Q. In that condition, did he say anything?
16 A. He was -- when he came to the window, he was like "Black
17 just got shot in the head."
18 Q. What did you do immediately when you heard that?
19 A. I jumped up and ran outside.
20 Q. And when you ran outside, how much time had gone by
21 between the time you heard Brad say Black just got shot in the
22 head until the time you're outside?
23 A. Six seconds, five or ten seconds.
24 Q. When you're outside, describe Brad's physical appearance
25 then.

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1 A. When I got outside, he had walked -- he was walking away
2 from the window. He was leaving to go out in the yard, so I was
3 like, "What's up?" He was like, "Man" --
4 Q. Before you tell me that, how was he acting then?
5 A. He was shaking. He was real hyped. He was like he ain't
6 trying to go back to jail.
7 Q. Now, in that condition, what did Brad say?
8 MR. TABACKMAN: Objection. Can we approach, Your Honor?
9 THE COURT: Yes.
10 (Following sidebar discussion had on the record:)
11 MR. TABACKMAN: We don't have any -- all we have is
12 shaking, basically, real hyped. We don't have voices, what his
13 voice is like, that he's sweating. The big thing is, I think, in
14 terms of the ability to reflect, the first words this witness
15 just said is, "I ain't -- I ain't going back to jail."
16 So this witness now -- so now we have Mr. Carter making an
17 excited utterance supposedly when what he's doing is he's
18 reflecting a clear indication of reflection here. I think there
19 is just not a basis to make an excited utterance. We don't have
20 the length of time between when Black got shot and --
21 I just think that -- I mean, the Court understands this,
22 so I don't need to go on. I think it's clear that it's not
23 excited to the level that hearsay should come in.
24 THE COURT: Were you going to ask anything more about his
25 condition or his appearance?

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1 MR. GUERRERO: I can, Judge, but I think the record
2 establishes that this witness saw Bradley Carter hyped, excited;
3 I think his own words were "shaking." And I think the statement
4 that previously just came out was "Black just got shot," to
5 establish a close proximity to the excited utterance that we're
6 just about to hear.
7 THE COURT: I'm not arguing with you. I was just asking
8 if you were planning to ask anything more about his appearance.
9 There was some reference to blood and running. I didn't know if
10 you were following up on that or not.
11 MR. GUERRERO: I can follow up on that.
12 MR. TABACKMAN: Your Honor -- I'm sorry.
13 Mr. Carter had been interviewed by the police.
14 THE COURT: Say that again.
15 MR. TABACKMAN: Mr. Carter had been interviewed by the
16 police by the time he's talking with this gentleman.
17 THE COURT: That's not in the record.
18 MR. ZUCKER: Your Honor, while he's reviewing something,
19 I'd like to respond. I just note that I did check with some of
20 the people who are more familiar with the area and in fact to get
21 from 15th and Alabama, this approximate area, over to -- to get
22 there from greater Southeast, which is, I think, the hospital he
23 says he went to, as well as to get from the scene of the
24 shooting, which I think was 23rd -- I mean, each of those are
25 like 10, 15 minute rides, which I think, going from -- and they

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1 went from the scene of the shooting to the hospital; while at the
2 hospital, he was there for a little while and was concerned about
3 being arrested because he knew there was an outstanding warrant,
4 so there's reflection on that, and then there's the additional
5 travel to the scene where the statement was made, all of which, I
6 think, undercuts the legitimacy of the excited utterance.

7 THE COURT: I think that'll go to the weight and not the
8 admissibility.

9 (Sidebar discussion concluded.)

10 BY MR. GUERRERO:

11 Q. All right. I just want to follow up a little bit with
12 what you said was the physical appearance of Brad when you're
13 outside with him and you said "hyped" and you also said it
14 looked like he'd been running. Describe that. Tell us exactly
15 how he appeared?

16 A. He was sweating, he was tired, he was just -- you could
17 tell he'd been running.

18 Q. And in that condition, in addition to what you told us
19 earlier, what did Brad say to you?

20 A. He said him, Black, Travis and Pooh, they was going to
21 the liquor store. And he said that -- I think they stopped at a
22 stop sign or a light or something.

23 MR. CARNEY: Objection.

24 MR. MARTIN: Objection.

25 THE COURT: Sustained.

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1 A. I know him from hanging around Congress Park. He used to
2 come up our way, too.

3 Q. If you saw Jo-Jo again, can you recognize him?

4 A. Yes.

5 Q. Why don't you stand up and tell us if you see Jo-Jo.

6 A. (Indicating.) Right there with the blue -- dark blue
7 blazer on.

8 Q. For the record, is that the gentleman who just stood up
9 behind me?

10 A. Yeah.

11 MR. GUERRERO: I'll note an in-court identification of
12 Mr. Jones.

13 MR. MARTIN: No objection.

14 THE COURT: Request is granted.

15 BY MR. GUERRERO:

16 Q. Now, did you stay with Brad at that point?

17 A. Naw. He went in his house and --

18 Q. Did you go inside the house?

19 A. No, I didn't go with him.

20 Q. What did you do when Brad went in the house?

21 A. I went back towards Mark's house.

22 Q. And how far away was that from Brad's house?

23 A. Right next door.

24 Q. And how long did you stay there?

25 A. I stayed there probably about 15, 20 minutes.

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1 BY MR. GUERRERO:

2 Q. Tell us what you recall, what you recall Brad saying.

3 A. And he said a car pulled up beside them. He said that
4 when he looked over --

5 Q. Nice and loud.

6 A. He said a car pulled up beside him. He said he looked
7 over. He said he seen Antwuan and Jo-Jo in the car.

8 Q. And did -- in that condition, did Brad tell you what, if
9 anything, Antwuan and/or Jo-Jo did?

10 A. He didn't say Jo-Jo did anything. He said Antwuan
11 started shooting out the window of his car.

12 Q. When you're talking to Brad, did you notice whether he
13 had any injuries?

14 A. Yes. He had -- he got shot in the hand.

15 Q. What did you see in his hand?

16 A. Blood.

17 Q. And raise up your hand so the jury can see. Which hand
18 are you talking about?

19 A. This hand right here (indicating), the right hand.

20 Q. The right hand?

21 A. Yeah.

22 Q. You said that Brad mentioned Jo-Jo. Do you know who that
23 is?

24 A. Yes.

25 Q. And how do you know Jo-Jo?

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1 Q. While you were there, did you notice any cars pull up to
2 Brad's house?

3 A. Yes. Fire department, police.

4 Q. Did you see an ambulance?

5 A. Yes.

6 Q. Did you see anybody go in the ambulance?

7 A. Brad.

8 Q. Now, when Brad was telling you what had happened, did he
9 also tell you whether or not he had gone up to the hospital?

10 A. Yes.

11 Q. And was that in that same conversation that you're having
12 with him?

13 A. Yes.

14 Q. And this is right outside --

15 A. Yes.

16 Q. -- Monkey Mark's house, right?

17 A. Yeah.

18 Q. What did Brad say about whether or not he went to the
19 hospital before he talked to you?

20 A. He said --

21 MR. TABACKMAN: I'll object, Your Honor.

22 THE COURT: Overruled.

23 BY MR. GUERRERO:

24 Q. Go ahead, tell us.

25 A. He said after Antwuan and them shot Black -- shot them,

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1 they had took Black to the hospital.
 2 **Q.** Who took Black to the hospital?
 3 **A.** Brad, Pooh and Travis.
 4 **Q.** And --
 5 **A.** And when they took him to the hospital, they dropped
 6 Black off and Brad said he ran back.
 7 **Q.** And that's when he said he met you?
 8 **A.** Yeah.
 9 **Q.** I'd like to now focus your attention to an incident that
 10 occurred over on Stanton Road and Congress Place. Do you know
 11 what I'm talking about?
 12 **MS. WICKS:** Objection as to leading, Your Honor.
 13 **THE COURT:** Overruled.
 14 **THE WITNESS:** With, I think, Squid.
 15 **BY MR. GUERRERO:**
 16 **Q.** What do you remember about that incident with Squid?
 17 **MR. GUERRERO:** First of all, let's see if we can pull up
 18 103.1 again so we can get oriented.
 19 **BY MR. GUERRERO:**
 20 **Q.** All right. Can you see 103.1 zoomed in?
 21 **A.** Yes.
 22 **Q.** And first of all, this incident that we're about to talk
 23 about, when did it happen? What year, do you think?
 24 **A.** I think this was '96. '96.
 25 **Q.** Do you recall if it was the summer or the winter of '96?

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1 **A.** I think the summertime.
 2 **Q.** Where were you? Point to us where you were.
 3 **A.** I was right here (indicating).
 4 I was inside this court right here, where the arrow is
 5 at.
 6 **Q.** All right. And you first drew a line which is horizontal
 7 starting at Stanton Terrace, heading left, cutting through
 8 Stanton Road, and then there's an arrow that you pointed --
 9 **A.** Yeah. I put the line too long, though.
 10 **Q.** -- in between 15th Place and Stanton Road. There's like
 11 a road there?
 12 **A.** Yes.
 13 **Q.** Okay. And who were you there with?
 14 **A.** It was me, Wal Luck, a female, Marcia, my girlfriend
 15 Toya, a few other people.
 16 **Q.** Was it day or night?
 17 **A.** It was at night.
 18 **Q.** And what do you recall happening?
 19 **A.** Jay-Jay had went to get in his car. Squid and his baby
 20 mother Sabrina and his daughter got in a car.
 21 **Q.** Did you see that?
 22 **A.** Yes.
 23 **Q.** And what kind of car was Jay-Jay driving?
 24 **A.** It was a burgundy Cadillac.
 25 **Q.** And in addition to Jay -- are we talking about Jay-Jay?

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1 **A.** Yes.
 2 **Q.** Is that the same James Faison that you said earlier?
 3 **A.** Yes.
 4 **Q.** Squid and Sabrina and who else did you see?
 5 **A.** Squid daughter.
 6 **Q.** And who's Sabrina? We haven't heard about her yet.
 7 **A.** That's Squid's baby mother.
 8 **Q.** And when you saw them get into the car, what else did you
 9 see next?
 10 **A.** Jay-Jay was pulling off and when he pulled off, he was
 11 making a left to go on Stanton Road.
 12 **Q.** All right. And is that the Stanton Road we see on
 13 Government's Exhibit 103.1?
 14 **A.** Yes.
 15 **Q.** So when you say heading left, it would have been heading
 16 toward the top of the exhibit?
 17 **A.** Yes.
 18 **Q.** All right. And where were you when you saw the car turn
 19 left?
 20 **A.** I was standing in the front of Congress Place in the
 21 court.
 22 **Q.** Is that the same location that you pointed to us earlier?
 23 **A.** Yes.
 24 **Q.** What did you see?
 25 **A.** Squid and Jay-Jay and them, they pulled off and they was

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1 making a left. At the same time they was making a left, two
 2 guys came out the cut of Turner School and started shooting at
 3 the car.
 4 **Q.** Can you see the cut here on 103.1?
 5 **A.** Yes.
 6 **Q.** Okay. Why don't you clear the screen first in the lower
 7 right-hand corner and point to the cut where you saw these two
 8 guys come out of.
 9 **A.** Right here (indicating).
 10 **Q.** You pointed to Stanton Road, a little bit above the "S"
 11 of Stanton Road?
 12 **A.** Yes.
 13 **Q.** And did you see those two guys with your own eyes?
 14 **A.** At first I didn't because the cut that they came out of,
 15 it's a dark cut. But once -- so all you could see is two
 16 bodies, but once the car passed and then they came out some
 17 more, they was under the light.
 18 **Q.** What happened? Tell us.
 19 **A.** Well, they was making the left and as soon as they made
 20 the left, we started hearing a lot of shots.
 21 **Q.** What kind of shots?
 22 **A.** Gunshots.
 23 **Q.** And were they -- which direction were the gunshots coming
 24 from?
 25 **A.** Well, at first I ain't know where they was coming from,

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1 but when I looked up towards Stanton Road, I seen two guys.
 2 They was standing like in front of the cut and they was shooting
 3 at the car. Jay-Jay was making a left and they was shooting at
 4 the car. And the car kept going and then you seen both of them
 5 standing right there.
 6 **Q.** And did you recognize who they were?
 7 **A.** Yes.
 8 **Q.** Who did you recognize them to be?
 9 **A.** Tweety and Cool Wop.
 10 **Q.** Cool Wop, the person you identified earlier?
 11 **A.** Yes.
 12 **Q.** And Tweety. Who's that?
 13 **A.** That's Edgar Watson.
 14 **Q.** I'm sorry?
 15 **A.** Edgar Watson.
 16 **Q.** And how long had you known Tweety?
 17 **A.** I knew him all my life.
 18 **Q.** What were the -- what was the lighting conditions like
 19 when you saw Cool Wop and Tweety?
 20 **A.** It was bright.
 21 **Q.** Let's focus first with Cool Wop. Did you see anything in
 22 his hands?
 23 **A.** Yes. They both had guns in they hands.
 24 **Q.** What kind of gun did you see Cool Wop with?
 25 **A.** I couldn't tell what type of gun they had.

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1 **Q.** How about Tweety?
 2 **A.** Naw, I couldn't tell.
 3 **Q.** Did you see whether or not the car that Jay-Jay was in
 4 was struck?
 5 **A.** No.
 6 **Q.** What did you do?
 7 **A.** I ran. I ran and got on the phone and called my cousin
 8 and told him to bring my gun because the gun that I had at
 9 first, the police had took it, so I had to get another gun.
 10 **Q.** Why did you want a gun?
 11 **A.** Because I was out there and I know that somebody might
 12 come through shooting or whatever, so I needed a gun.
 13 **Q.** Where did you see Cool Wop and Tweety go?
 14 **A.** They turned back around.
 15 MS. WICKS: Objection, assumes facts not in evidence.
 16 THE COURT: Sustained.
 17 BY MR. GUERRERO:
 18 **Q.** What did you see them do?
 19 **A.** They --
 20 MS. WICKS: Objection.
 21 THE COURT: You can rephrase.
 22 BY MR. GUERRERO:
 23 **Q.** After you saw Cool Wop and Tweety with the gun, what did
 24 you see them do next?
 25 **A.** They turned around and ran towards -- back up through the

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1 cut.
 2 **Q.** The same cut that you pointed to earlier?
 3 **A.** Yes.
 4 **Q.** Did you see where they went after that?
 5 **A.** No.
 6 **Q.** I'd like to focus your attention to an incident that
 7 occurred off two different cuts near Alabama Avenue.
 8 **A.** Yes.
 9 **Q.** What -- was there an incident that you saw in that area?
 10 **A.** Yes.
 11 **Q.** And what year do you think that was?
 12 **A.** That was '96.
 13 **Q.** Can you see that area on 103.1?
 14 **A.** Yes.
 15 **Q.** Can we -- why don't you clear the screen first.
 16 **A.** (Complied.)
 17 **Q.** All right. You cleared the screen and then, for the
 18 record, you made a series of three arrows between 15th Place and
 19 Stanton Road?
 20 **A.** Yes.
 21 **Q.** Which one did you mean to point to?
 22 **A.** Huh?
 23 **Q.** Which one did you want to point to? Or did you want to
 24 point to all of them?
 25 **A.** I wanted to point to all of them.

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1 **Q.** Okay. And why don't we start with -- first of all, when
 2 do you think this event happened?
 3 **A.** This was in '96.
 4 **Q.** In the summer or winter?
 5 **A.** Summer.
 6 **Q.** And the areas that you've marked on 103.1, what are those
 7 areas?
 8 **A.** Those are the cuts, called cuts, where you can cut
 9 between the houses.
 10 **Q.** And where were you on this particular date?
 11 **A.** I was right on Congress.
 12 **Q.** You pointed to 15th Place, to the right of the "t-h" off
 13 15th Place?
 14 **A.** No, it's -- yes, it's on Congress, but it's like a few
 15 walks to get to 15th.
 16 **Q.** So it's like at the intersection of Congress Place and
 17 15th Place?
 18 **A.** Yes.
 19 **Q.** And who were you out there with?
 20 **A.** It was me, Squid, I think Jay-Jay was with us, too. I
 21 think he was. I don't know everybody, but I think Jay-Jay was
 22 with us, too.
 23 **Q.** Was it day or night?
 24 **A.** It was at night.
 25 **Q.** And what were you guys doing?

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1 A. We was just sitting out there, basically selling drugs.
 2 Q. And did anything happen?
 3 A. Yes. We just started hearing a lot of gunfire.
 4 Q. And where were you when you heard the gunfire?
 5 A. Inside the court.
 6 Q. Which court?
 7 A. The first court.
 8 Q. All right. So it's to the right of 15th Place, the first
 9 court to the right of the "t-h"?
 10 A. Yes.
 11 Q. And how many gunshots did you hear?
 12 A. Maybe 20.
 13 Q. 20 shots?
 14 A. Yes.
 15 Q. What did you do?
 16 A. I got down.
 17 Q. Did you see anything?
 18 A. Well, I ain't see nothing at first. The only thing I
 19 seen was a lot of people across the street from the court that
 20 we was in. They was like running, running in the house and
 21 getting on the ground.
 22 Q. Which court are you talking about? Why don't you clear
 23 the screen there so we can start fresh.
 24 First, point to the court again where you were.
 25 A. (Indicating.)

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1 Q. And now point -- you pointed again to the same area to
 2 the right of the 15th, "t-h" area, the first court. And then
 3 you said you saw people running from another court?
 4 A. Right (indicating).
 5 Q. And you've pointed to almost right across the street from
 6 the first area where you had mentioned you were in the first
 7 court?
 8 A. Right. This court right here (indicating).
 9 Q. All right. And what did you see when you saw those other
 10 persons running from that other court?
 11 A. They was running and then after the gunfire stopped,
 12 they -- that's when I seen Tweety run from the first cut across
 13 the street to the next cut.
 14 Q. All right. Which cut are we talking about here?
 15 A. (Indicating.)
 16 Q. Okay. You're pointing to an area to the -- on 103.1, to
 17 the left of Stanton Road, looks like to be the second cut to the
 18 left of Stanton Road. And did you see anything in Tweety's
 19 hands?
 20 A. Yes.
 21 Q. What did you see?
 22 A. He had a gun in his hand.
 23 Q. Could you tell what kind of gun it was?
 24 A. Uh-uh.
 25 Q. How much time had passed between the time you heard the

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1 20 gunshots and the time you saw Tweety with the gun in his
 2 hand?
 3 A. As soon as the gunfire stopped, I seen him run across the
 4 street.
 5 Q. What did you see next?
 6 A. Squid -- Squid shot at him one time. And then after he
 7 shot at him and everybody was getting up, that's when we seen
 8 Cool Wop run out this cut (indicating) through the alley,
 9 through the alleyway.
 10 Q. And you pointed to Government's Exhibit 103.1 to the
 11 right of 15th Place, starting at the "5" and then heading north
 12 on the exhibit?
 13 A. Right.
 14 Q. Did you see anything in Cool Wop's hands?
 15 A. Yes.
 16 Q. What did you see?
 17 A. He had a gun.
 18 Q. Could you tell what kind of gun it was?
 19 A. Naw.
 20 Q. What did you see next?
 21 A. Well, that was it. After they ran through there, that
 22 was it. I ain't have no gun, I think.
 23 Naw, I did have a gun. I did have a gun on me. I just
 24 think I ain't fired. I had a gun.
 25 Q. You had a gun?

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1 A. Yeah.
 2 Q. Why didn't you fire?
 3 A. I don't know. I ain't got no reason.
 4 Q. Did you ever see -- well, strike that.
 5 I would like to now move over to an indent where you were
 6 in a car with Jay-Jay and you went up to Antwuan Ball.
 7 A. Yes.
 8 Q. Do you recall where that took place?
 9 A. On Congress Place.
 10 Q. And what year do you think this was?
 11 A. I think it's '95. I think it was '95.
 12 Q. And first of all, who were you with that day?
 13 A. Jay-Jay.
 14 Q. And was it day or night?
 15 A. It was during the daytime.
 16 Q. Was it the winter or the summer?
 17 A. The summer.
 18 Q. What were you doing with Jay-Jay?
 19 A. He had just went and picked his daughter up from school
 20 and he asked me to take him around his baby mother house to drop
 21 his daughter off.
 22 Q. And did you do that in a car?
 23 A. Yes.
 24 Q. Which car did you go in?
 25 A. I had a Caprice.

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1 Q. Who got in the car with you?
 2 A. Well, Jay-Jay put his daughter in the car with me first.
 3 He was ready to get in, but at the same time, as soon as he put
 4 his daughter in the car, that's when Antwuan pulled up beside
 5 us.
 6 Q. Let me pause you right there. Can you see the area where
 7 this event occurred on 103.1?
 8 A. Yes.
 9 Q. Why don't you clear the screen for us again.
 10 All right. And you're pointing to an area to the right
 11 of 15th Place, in between 15th Place and Stanton Road?
 12 A. Yeah. We going up towards Stanton Road.
 13 Q. So you were heading towards Stanton Road, in that
 14 direction?
 15 A. Right.
 16 Q. And what happened -- well, first of all, when Antwuan
 17 pulled up, is he walking or in a car?
 18 A. He was in a car.
 19 Q. Could you see who was -- was there anybody else with him?
 20 A. Yes.
 21 Q. Who was with him?
 22 A. Cool Wop.
 23 Q. And we're talking about the same Antwuan you identified
 24 earlier in court?
 25 A. Yes.

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1 Q. And the same Cool Wop that we were talking about earlier
 2 in court?
 3 A. Yes.
 4 Q. Was there anybody else in the car?
 5 A. Naw.
 6 Q. What kind of car was Antwuan and Cool Wop in?
 7 A. I don't know. I can't remember. I can't remember what
 8 kind of car it was.
 9 Q. How close did the car get to you?
 10 A. It was close. It wasn't -- it wasn't -- it was close.
 11 Q. And what did you see Squid do, if anything?
 12 A. Squid wasn't out there.
 13 Q. I'm sorry. You said Jay-Jay?
 14 A. Yeah.
 15 Q. I meant Jay-Jay. What did you see Jay-Jay do, if
 16 anything?
 17 A. Jay-Jay was standing between the door and the car. And
 18 when Antwuan and them rolled past us, he looked and seen them,
 19 they looked and seen us, so he pulled over and Cool Wop got out
 20 the car and --
 21 MS. WICKS: Objection, non-responsive and narrative.
 22 THE COURT: Put your next question.
 23 BY MR. GUERRERO:
 24 Q. When the car stopped, what did you see happen next -- the
 25 car that you're in?

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1 A. The car that I'm in?
 2 Q. Yeah. The car that you and Jay-Jay were in, you said it
 3 stopped?
 4 A. No, they car stopped.
 5 Q. Oh, okay. I misunderstood. When the other car stopped,
 6 you're talking about the car that Antwuan and Cool Wop are in?
 7 A. Yes.
 8 Q. When that car stopped, what did you see happen?
 9 A. Cool Wop got out the car and Jay-Jay was trying to talk
 10 to him.
 11 Q. Did you see Jay-Jay in the car or did you see Jay-Jay
 12 approach Cool Wop?
 13 A. He was standing between the door and the car, like the
 14 door was open, he's standing in the middle of the door and the
 15 car.
 16 Q. And what did you see happen then?
 17 A. He stuck his hand up at Cool Wop, was like (indicating),
 18 "Let me talk to you." And Cool Wop was like, "Naw." And then
 19 Antwuan jumped out the driver's side and was like, "Naw, you
 20 can't holler at him."
 21 Q. Where were you at that point?
 22 A. I was in the driver's seat.
 23 Q. Did you get out of the car at all?
 24 A. No.
 25 Q. Why not?

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1 A. Because I was holding his daughter.
 2 Q. What did you see happen next?
 3 A. Cool Wop was walking towards Marcia and them house, like
 4 going up the stairs, and he was still saying something. I
 5 couldn't understand what he was saying. And he stuck his hand
 6 in his pocket.
 7 Q. Who stuck his hand in his pocket?
 8 A. Cool Wop.
 9 Q. Did you see that?
 10 A. Yes.
 11 Q. And what did you see next?
 12 A. When he stuck his hand in his pocket, I was like -- I was
 13 like -- I called Jay-Jay Face sometimes, too, so I was like,
 14 "Face, he putting his hand in his pocket."
 15 So Jay-Jay grabbed the gun like off the seat and was
 16 like -- he wanted to go do something, but he had his daughter.
 17 Q. Who wanted to go do going?
 18 A. Jay-Jay, but he had his daughter there, so it was like he
 19 let it go. It was like he let it go.
 20 Q. When you saw Cool Wop put his hand in his pocket, could
 21 you tell what he was reaching for?
 22 A. Yeah.
 23 MS. WICKS: Objection, assumes a fact not in evidence.
 24 MR. MARTIN: Objection, calls for speculation.
 25 THE COURT: Overruled.

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1 BY MR. GUERRERO:

2 Q. Could you see what it appeared that Cool Wop was reaching
3 for?

4 A. It looked like a gun.

5 Q. How could you tell --

6 MR. MARTIN: Objection.

7 BY MR. GUERRERO:

8 Q. How could you tell that?

9 Don't answer that. I'm not sure --

10 MR. MARTIN: Same objection.

11 THE COURT: Overruled.

12 BY MR. GUERRERO:

13 Q. How could you tell that it appeared that Cool Wop had a
14 gun?

15 A. Because the pants that he had on --

16 Q. Why don't you stand up for us and point to the pocket
17 that you saw Cool Wop go into.

18 A. Right pocket (indicating).

19 Q. And you're demonstrating that for the jury. And what did
20 it looks like to you that he was holding there?

21 A. It looked like a gun in there because his pants --
22 because the gun was sticking out through his pocket like this
23 (indicating).

24 Q. Okay. Thank you. Did you ever see him pull out a gun?

25 A. No.

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1 Q. How did that incident end?

2 A. Cool Wop went inside the house and I took Jay-Jay around
3 his baby mother house.

4 Q. All right. I would like to focus your attention now to
5 an incident that happened over by the rec center that you told
6 us about earlier where you were with Teeny Man.

7 A. Yes.

8 Q. And what year do you think this incident happened?

9 A. This was in '96, I think. Yeah.

10 Q. And is that the rec center that you pointed out for us
11 earlier?

12 A. Yes.

13 Q. What time of year was it, winter or summer?

14 A. It was summertime.

15 Q. And was it day or night?

16 A. Daytime.

17 Q. What were you doing out at the rec center?

18 A. I wasn't at the rec center. We was -- I was walking
19 towards my house. And it just so happened Teeny Man was walking
20 that way too, so --

21 Q. Can we see that on 103.1?

22 A. Yes.

23 Q. Why don't you clear the screen again and show us where
24 this happened.

25 A. (Indicating.)

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1 Q. All right. You pointed at 103.1 on 15th Place right
2 below the "1," a little bit to the right of the "1"?

3 A. Yes.

4 Q. And you said you were walking?

5 A. Yes.

6 Q. You were going where?

7 A. I was walking towards my house. Teeny Man was walking
8 towards the store, but when we walked through the cut, at the
9 end of the cut, La La and a couple of females was out there.

10 They was sitting on the wall and they was drinking and smoking.
11 We stopped right there, we was talking to them for a minute. We
12 was in the back of the rec center.

13 Q. And what happened when you were in the back of the rec
14 center?

15 A. Everybody was talking and stuff and a car had pulled in
16 the alley, so I turned around and looked at the car and --

17 Q. Do you remember what kind of car it was?

18 A. It looked like it was a Pontiac or -- I don't know. It
19 was something like that. It looked like a rental car.

20 Q. Could you see how many people were in the car?

21 A. I think it was like five people in there.

22 Q. How close did you get to the car?

23 A. Well, where we was standing at, the car was close. It
24 was -- I'd say the car, from here to the end of that table,
25 probably.

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1 Q. To the end of what table?

2 A. To the end of that table (indicating), the big table
3 right there.

4 Q. The table that I'm pointing at now?

5 A. Yeah.

6 Q. You're talking about the end of the table over where that
7 black computer is and there's a gentleman with a suit there?

8 A. Yes.

9 Q. So the distance would have been from where you are to the
10 end of the table?

11 A. Yes. The car was facing us.

12 MR. GUERRERO: Your Honor, is there an approximate
13 distance measurement?

14 THE COURT: 24 and a half feet.

15 THE WITNESS: I'd say --

16 BY MR. GUERRERO:

17 Q. And were you facing the car?

18 A. It was like the car was in front of us, but it was like
19 we was facing the car more than the car was facing us, so the
20 car was coming up this way and we over here. So when it pulled
21 in, we right here (indicating).

22 Q. What happened then?

23 A. So when I looked at the car, I seen Tweety driving the
24 car. And we caught eye contact. He tried to back up real fast.

25 By that time, I already seen everybody in the car.

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1 Q. Who did you see in the car?

2 A. I seen Cool Wop, I seen Jo-Jo, I seen Drano and I seen a

3 guy named Fat Tony.

4 Q. What did you do when you saw all those guys in the car?

5 A. Well, once Tweety backed up real fast, he backed up real

6 fast and he stopped. So we heard -- I heard the doors open. By

7 that time, everybody running, everybody that was sitting on the

8 wall. Me and Teeny Man, we was backing up. I grabbed them and

9 was like, "back up, back up."

10 So when we backed up, you got the row of houses. It's

11 like now they can't see us, we can't see them. But once they

12 come -- they can take maybe three, four steps right there, you

13 can -- we can see them there and they can see us.

14 So by that time, they was just shooting at everything

15 that was in their way.

16 Q. Who did you see shooting?

17 A. Cool Wop and Tweety.

18 Q. And did you see a gun in Cool Wop's hands?

19 A. Yes.

20 Q. What kind of gun did you see?

21 A. I don't know what type of gun it was when I seen it. I

22 know it was like a silver gun.

23 Q. How about Tweety?

24 A. He had a -- he had like a -- it was a big gun he had. It

25 was a gun -- I ain't never seen that gun before.

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1 Q. How many shots did you actually see go off?

2 A. About 75.

3 Q. Was anyone hurt?

4 A. No.

5 Q. Did anyone that you were with -- you said you were with

6 Teeny Man?

7 A. Yes.

8 Q. Did you fire back?

9 A. No.

10 Q. And did Teeny Man ever fire back?

11 A. No.

12 Q. The gun that Teeny Man had -- strike that. Wrong. I'm

13 thinking wrong. I'm incorrect.

14 The gun that you saw Tweety had, describe what it looked

15 like.

16 A. It was a black gun and it had a thing on the top, like a

17 clip on top of it.

18 Q. And did it looks like an automatic type gun?

19 A. Yeah.

20 MR. TABACKMAN: Objection.

21 MR. ZUCKER: Objection.

22 THE COURT: Sustained.

23 BY MR. GUERRERO:

24 Q. Well, you tell us what it looked like.

25 A. It was like a -- it was about this big (indicating).

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1 Q. And hold it up nice and high so we can see.

2 A. About this big (indicating).

3 Q. You're holding your hands up about 12 inches apart?

4 A. Yeah. Probably about this big (indicating).

5 MS. WICKS: Your Honor, may we approach briefly.

6 THE COURT: Hmm?

7 MS. WICKS: May we approach briefly?

8 THE COURT: On this question?

9 MS. WICKS: Yes.

10 THE COURT: No.

11 BY MR. GUERRERO:

12 Q. You were saying for the jury it was about 12 inches in

13 length?

14 A. Yes. It was about this big (indicating). It had a clip

15 on top of it.

16 Q. How about the clip? Describe that clip. Was it a small

17 one? A big one?

18 A. The clip was about this long (indicating). It sits on

19 top of the gun.

20 Q. Have you ever seen guns like that yourself?

21 A. No, I never seen it.

22 Q. Did you later see a similar gun?

23 A. Yes.

24 Q. And did you later find out what kind of gun that was?

25 A. Yes.

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1 Q. What kind of gun was it?

2 A. It's a Calico.

3 Q. And what's a Calico?

4 A. It's a gun that shoots a lot of bullets.

5 MR. GUERRERO: Court's indulgence.

6 BY MR. GUERRERO:

7 Q. When you talked about this incident here before the

8 jury -- do you recall talking to Agent Lockhart back in April of

9 2006?

10 A. Yes.

11 Q. And do you recall talking about this incident to him?

12 MR. TABACKMAN: Objection.

13 MS. WICKS: Objection. May we approach, Your Honor?

14 THE COURT: On this question?

15 MS. WICKS: A concern I have. May we approach, please?

16 THE COURT: Not on this question, no.

17 MS. WICKS: It's not -- it's about the proceeding. If I

18 can please approach the bench.

19 THE COURT: It's about what?

20 MS. WICKS: It's the proceeding at this point. Can I

21 please approach the Court?

22 THE COURT: Not on this question, no.

23 BY MR. GUERRERO:

24 Q. All right. The question was, do you recall talking to

25 Agent Lockhart about this incident back in April of 2006?

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1 A. Yes.

2 Q. And do you recall whether or not you said anything to

3 Agent Lockhart about Jo-Jo being in the car?

4 A. I don't remember. I don't remember talking to him

5 about -- I don't remember. I don't know. I might have. I

6 don't remember.

7 Q. Are you -- now that you're here today, are you sure that

8 Jo-Jo was in the car or not?

9 MR. ZUCKER: Objection.

10 THE WITNESS: Yes.

11 THE COURT: Hold on a second.

12 MR. MARTIN: The question that preceded that said he

13 didn't remember. I object to the leading form of the question.

14 THE COURT: Come on up.

15 (Following sidebar discussion had on the record:)

16 THE COURT: What are you trying to do?

17 MR. GUERRERO: I'm impeaching my witness on something that

18 he didn't say before, which is I'm fronting in direct

19 examination, because we made the disclosure to the defense on the

20 302s that when he mentioned this incident to Rob Lockhart in

21 April, he didn't mention Jo-Jo.

22 And so -- and also when -- also, when he mentioned this

23 incident to Agent Lockhart in April of 2006, he didn't mention

24 that Wop had a gun. And we released that to them. So I'm

25 fronting something that I expect is going to be impeachable later

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1 on in cross-examination.

2 THE COURT: The last question was?

3 Do you want to put on the record your objection?

4 MR. ZUCKER: No. I withdraw my objection, based on that.

5 MR. MARTIN: Mine was to leading and --

6 MS. WICKS: Can I consult with government counsel for a

7 moment, Your Honor?

8 (Discussion had off the record.)

9 BY MR. GUERRERO:

10 Q. All right. I guess my last question to you was, you

11 don't recall mentioning Jo-Jo in the car back in April of 2006

12 to Agent Lockhart and my question is now, as you testify here

13 today, are you sure Jo-Jo was in the car?

14 A. I'm sure.

15 Q. Okay. And similarly, when you talked to Agent Lockhart

16 back in 2006, do you recall whether or not you told Agent

17 Lockhart specifically that you saw a gun in Cool Wop's hand?

18 A. Yes.

19 Q. And do you recall saying yes, that you saw that to Agent

20 Lockhart or do you not remember?

21 A. I don't remember.

22 Q. Okay. Now I'm asking you now, as you sit here today, are

23 you sure that you saw a gun in Cool Wop's hand?

24 A. Yes.

25 Q. Do you know a person named Boy-Boy?

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1 A. Yes.

2 Q. How do you know that person?

3 A. I knew Boy-Boy -- his brother -- I went to school with

4 his youngest brothers.

5 Q. And who are the brothers that you know related to

6 Boy-Boy?

7 A. Santuce and Jazz.

8 Q. How long did you know Boy-Boy back between '93, '96?

9 A. I knew Boy-Boy basically all my life for real as far as,

10 you know, going to Malcolm X and just by seeing him around other

11 guys, you know, in the neighborhood.

12 Q. If you saw Boy-Boy again, would you recognize him?

13 A. Yes.

14 Q. Would you stand up and tell us if you see him.

15 A. He's behind Cool Wop.

16 Q. What's he wearing?

17 A. He has on a white shirt -- I can't really see him.

18 Q. And did you say he was behind someone that you recognize?

19 A. He's behind Cool Wop.

20 MR. GUERRERO: Your Honor, I note an in-court

21 identification of Mr. Bell.

22 MR. BEANE: No objection, Your Honor.

23 THE COURT: Request is granted.

24 BY MR. GUERRERO:

25 Q. And what kind of interactions, if any, did you have with

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1 Boy-Boy?

2 A. Between 1993 and 1996, I bought a couple of eight-balls

3 from him.

4 Q. Eight-balls of what?

5 A. Cocaine.

6 Q. And before '93, had you done that also with Boy-Boy?

7 MR. BEANE: Objection, leading, Your Honor.

8 THE COURT: Overruled.

9 THE WITNESS: I don't remember for sure, but I know I

10 bought a few eight-balls from him, wholesales.

11 MR. GUERRERO: Court's indulgence.

12 BY MR. GUERRERO:

13 Q. Let's talk about you now. We've talked about instances

14 where you were shot at. How about you in particular? Do you

15 recall, as part of your plea agreement, acknowledging some

16 participation in some violence as well?

17 A. Yes.

18 Q. And I'd like to focus your attention to your plea. In

19 addition to the -- you said there was a couple of attempted

20 murders; is that what you called them?

21 A. Yes.

22 Q. And were you involved in an incident where a couple of

23 police officers were shot?

24 A. Yes.

25 Q. And tell us about that. What happened there?

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1 **A.** I was coming from the liquor store and I pulled up on
2 Congress Street -- Congress Place and I was getting out the car
3 and I had a bag of liquor in my hand and I had the gun in my
4 hand under the bag. And a four-door car came down on Congress
5 and turned in the alley. It was like maybe four or five people
6 in the car.
7 So a guy named Poochy told me there was supposed to have
8 been some guys from Stanton Terrace --
9 **MR. ZUCKER:** Objection. Objection to what Poochy told
10 him.
11 **MR. GUERRERO:** Goes to state of mind, Your Honor.
12 **MS. WICKS:** Exception.
13 **MR. ZUCKER:** Exception. I'll withdraw.
14 **BY MR. GUERRERO:**
15 **Q.** Poochy told you what?
16 **A.** That there was some guys from Stanton Terrace. It was
17 Tweety and them.
18 **Q.** That guys in what were from Stanton Terrace?
19 **A.** That was in the car.
20 **Q.** Did that car look like a police car to you?
21 **A.** No.
22 **Q.** And so what did you do?
23 **A.** I put the bag down, I ran through the cut, Wal Luck ran
24 through the alley and I got down on one knee and I shot at the
25 car.

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1 **Q.** Did you know who it was that was inside the car?
2 **A.** No.
3 **Q.** You were shooting at them because you thought they were
4 from Stanton Terrace?
5 **MR. BEANE:** Objection, leading.
6 **THE COURT:** Sustained.
7 **BY MR. GUERRERO:**
8 **Q.** How about an incident where a person named Mark Barnes
9 was shot at? What happened there?
10 **A.** Well, a couple of us got together and we walked up
11 through the same cut that Cool Wop and Tweety came out of and we
12 seen a group of people at the bottom of Stanton Terrace and we
13 just started shooting at everybody.
14 **Q.** Why did you shoot at them?
15 **MR. TABACKMAN:** Your Honor, I'm going to object. Can we
16 approach?
17 **THE COURT:** To why he shot?
18 **MR. TABACKMAN:** I'm going to object to the form of the
19 impeachment. I mean, Mr. -- to have this witness at this point
20 go through all of this. He can ask him what his conviction was.
21 We have to cross-examine him on the rest of it.
22 **THE COURT:** Overruled.
23 **MR. TABACKMAN:** Okay. Thank you.
24 **BY MR. GUERRERO:**
25 **Q.** Why'd you shoot?

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1 **A.** Because they was -- they was part of the beef.
2 **Q.** Part of what beef?
3 **A.** Part of the beef that was against us. They was with
4 Tweety.
5 **Q.** How about an incident where a person named Ira Clanton --
6 Do you know who Ira Clanton is?
7 **A.** Yes.
8 **Q.** Who's that?
9 **A.** He used to hang around us.
10 **Q.** Did Ira have a nickname?
11 **A.** Yes.
12 **Q.** What's that?
13 **A.** Idaho.
14 **Q.** And was there an incident that happened between you and
15 him?
16 **A.** Yes.
17 **Q.** What happened?
18 **A.** He supposed to have been testifying against me on
19 shooting the police officer.
20 **Q.** And because he was testifying against you, what did you
21 do?
22 **A.** I shot him.
23 **MR. ZUCKER:** Objection to the form of the question.
24 **THE COURT:** Overruled.
25 **BY MR. GUERRERO:**

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1 **Q.** What did you do?
2 **A.** I shot him.
3 **Q.** Do you know if, when you shot at Ira Clayton, there was
4 another person in there by the name of Keith Archy?
5 **A.** Yes.
6 **Q.** Now, as part of your plea agreement, did you take
7 accountability for those shootings?
8 **A.** Yes.
9 **Q.** And you mentioned earlier that you have how many years
10 left on your sentence from Superior Court?
11 **A.** Five.
12 **Q.** And do you know what "perjury" means?
13 **A.** Yes.
14 **Q.** And what does it mean to you?
15 **A.** It means if you lie, you can get extra time.
16 **Q.** If you lie under oath?
17 **A.** Yes.
18 **Q.** And if you were caught lying under oath, what would that
19 expose you to?
20 **MR. TABACKMAN:** Objection, bolstering, and to the form of
21 the question.
22 **THE COURT:** Overruled.
23 **THE WITNESS:** Some more time.
24 **BY MR. GUERRERO:**
25 **Q.** Some more time on top of what?

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1 A. My five years.
 2 Q. Is that something that you're willing to risk?
 3 A. No.
 4 Q. Are you telling this jury the truth today?
 5 A. Yes.
 6 MR. GUERRERO: I have nothing further, Your Honor. Thank
 7 you.
 8 THE COURT: Mr. Tabackman, do you want to start now or
 9 after the 3:45 break?
 10 MR. TABACKMAN: After the 3:45 break, Your Honor.
 11 THE COURT: We'll go ahead and take the break now, ladies
 12 and gentlemen. We'll break for 15 minutes. Please don't talk
 13 about the case. Take your notes with you and come back at five
 14 of 4.
 15 (Jury out at 3:41 p.m.)
 16 (Thereupon, a break was had from 3:41 p.m. until.
 17 3:57 p.m.)
 18 THE COURT: Mr. Tabackman, you ready for the jury?
 19 MR. TABACKMAN: Yes, sir.
 20 (Jury in at 3:59 p.m.)
 21 THE COURT: Good afternoon, ladies and gentlemen.
 22 THE JURY PANEL: Good afternoon.
 23 THE COURT: Welcome back, we're ready to resume.
 24 Mr. Tabackman.
 25 MR. TABACKMAN: Thank you, Your Honor.

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1 CROSS-EXAMINATION OF DAMIEN GREEN
 2 BY MR. TABACKMAN:
 3 Q. Mr. Green, you have some concerns about testifying, don't
 4 you, in this case?
 5 A. What you mean?
 6 Q. Well, haven't you expressed concerns about your continued
 7 cooperation?
 8 A. Yeah.
 9 Q. And you have actually expressed them to Mr. Guerrero,
 10 haven't you?
 11 A. Say that again.
 12 Q. You have expressed your continuing concerns to
 13 Mr. Guerrero?
 14 A. Yes.
 15 Q. And you expressed them as recently as May 27th, 2007;
 16 isn't that right?
 17 A. Yes.
 18 Q. And that was on what, Monday of this week?
 19 A. Yes.
 20 Q. And those are concerns about whether or not you're going
 21 to get what you want in exchange for your testimony, isn't it?
 22 A. Yes.
 23 Q. Because so far, you haven't gotten what you want; isn't
 24 that right?
 25 A. Right.

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1 Q. They've written letters to the parole board; isn't that
 2 right?
 3 A. Right.
 4 Q. But that hasn't gotten you any time knocked off?
 5 A. Right.
 6 Q. And you wanted a letter to the Judge, for a sentencing
 7 modification, right?
 8 A. Right.
 9 Q. None of this parole board stuff, you're tired of that?
 10 A. I mean, naw, it's like this. I want a letter for the
 11 parole board, too, but incentive for modification comes from --
 12 basically, I don't know the law, so I had somebody help me with
 13 that and that's why he received that letter Monday. So I tried
 14 to come back at him with something, so I can try to get
 15 something.
 16 Q. You put out your bargaining position, right?
 17 A. Yeah.
 18 Q. You want my testimony in your case, I want a letter for
 19 sentence modification, right?
 20 A. I mean, I ain't demand that, but I want something.
 21 Q. Right. Something concrete?
 22 A. I want something that's going to help me.
 23 Q. Right, because that's part of the accountability that
 24 you've had for the murders that you've done, right?
 25 MR. GUERRERO: Objection, argumentative.

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1 THE COURT: Overruled.
 2 THE WITNESS: It's not like that.
 3 BY MR. TABACKMAN:
 4 Q. It's not like that?
 5 A. Naw.
 6 Q. Mr. Guerrero said you've taken accountability and you
 7 said yes for the murders you've done?
 8 A. Right.
 9 MR. GUERRERO: Objection, your Honor, misstates the
 10 record.
 11 THE COURT: I'll allow it.
 12 BY MR. TABACKMAN:
 13 Q. And since you've taken accountability, you don't want to
 14 take too much accountability, do you?
 15 A. I mean, give me what you got, I'll take all of it. I'm
 16 already in a bad position now, so, I mean, what's -- ain't
 17 nothing going to hurt me now, unless you giving me more time.
 18 Q. You don't want to do the five years that you've still
 19 got, right?
 20 A. Right. I feel if I'm going to help the government, I
 21 feel they should help me.
 22 Q. And helping the government, helping the government means
 23 getting convictions on these defendants, right?
 24 MR. GUERRERO: Objection, Your Honor.
 25 THE COURT: Sustained.

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1 THE WITNESS: I don't --
 2 THE COURT: That means you don't answer.
 3 THE WITNESS: Oh, okay.
 4 BY MR. TABACKMAN:
 5 Q. Helping the government means coming in here, is that
 6 right?
 7 A. Right.
 8 Q. Helping the government means having to go to the U.S.
 9 Attorney's Office and meet with them; isn't that right?
 10 A. Right.
 11 Q. How many times, by the way, have you met with
 12 Mr. Guerrero in the last three weeks?
 13 A. Uh, I'd say maybe three, four times. Maybe three times.
 14 Q. Maybe three or four?
 15 A. Maybe three times.
 16 Q. In the last three weeks?
 17 A. Yeah, you could say that.
 18 Q. Okay. And let's go back and say the last two months, how
 19 many times have you met with Mr. Guerrero?
 20 A. None.
 21 Q. So, how about in 2007, how many times have you met with
 22 Mr. Guerrero?
 23 A. I wasn't talking to him. I was talking to
 24 Ms. Ann Petalas.
 25 Q. Okay. When -- how many times in the last -- in 2007 have

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1 you met with Ms. Petalas?
 2 A. I think I met with her one time, and that was last year.
 3 Q. Last year. Okay. So let's go -- but with Mr. Guerrero
 4 in the last few weeks, you met with him three or four times?
 5 A. I met with him at least three times and that was not last
 6 week, it was this week.
 7 Q. This week?
 8 A. Yeah.
 9 Q. So when did you first find out you were going to testify
 10 in this trial?
 11 A. I found out last year sometime.
 12 Q. Last year?
 13 A. Yeah. I been -- was asked about testifying on this case
 14 maybe two years ago.
 15 Q. But you were given a choice as to whether you would
 16 testify or not?
 17 A. It wasn't that I got a choice. It was just by me -- the
 18 same stuff that I testified here today on, I testified on my
 19 case. It's just that I wasn't talking about them on my case.
 20 It was basically on what we done after the fact, what they done
 21 to us.
 22 Q. Okay. We're going to get into all that.
 23 A. So that's why it was -- when I talked about them, it was
 24 more different from our case.
 25 Q. We're going to get to all of that.

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1 In any event, in the last -- earlier this week, you sent
 2 Mr. Guerrero a letter; isn't that right?
 3 A. Right.
 4 Q. And you said someone helped you write it?
 5 A. Yes.
 6 Q. Was that somebody at the jail?
 7 A. Yes.
 8 Q. And was that another prisoner?
 9 A. Yes.
 10 Q. And that prisoner knew something about the law?
 11 A. Well, it's not that he knew about the law, he had -- he
 12 had time, too, so -- he had time in the state, so when he
 13 testified, he had got that, so he brought that to my attention,
 14 not saying that I can get the same thing, he just brought it to
 15 my attention and asked me -- see if I can get that.
 16 Q. And it seemed like a good idea for you to ask for more
 17 time and more assistance from the government with your problem,
 18 right?
 19 A. Yeah.
 20 Q. Because you were helping with their problem, correct?
 21 A. Right.
 22 Q. Now, by the way, your problem, your problem arises from
 23 the fact that you put 16 bullets into the back of a police
 24 officer, didn't you?
 25 A. No, I didn't. I ain't put 16 bullets in no police

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1 officer.
 2 Q. Let me read something to you, sir, from the presentence
 3 report. On June 7th, 1996, MPD.
 4 MR. GUERRERO: Objection, Your Honor.
 5 THE COURT: Sustained.
 6 BY MR. TABACKMAN:
 7 Q. Is it your testimony, sir, that you didn't fire 16
 8 bullets from a .9 millimeter gun into the back of an undercover
 9 police officer?
 10 A. I fired 17 bullets, but I didn't put 17 bullets into a
 11 police officer. That's what you said.
 12 Q. I'm sorry, sir, I guess -- I was giving you too much
 13 credit for being a good shot. How many did go into the police
 14 officer?
 15 A. I don't know, maybe two, maybe three.
 16 Q. But you wanted to be sure, so you fired all 17?
 17 A. Yes.
 18 Q. And that -- what kind of gun was that? Was that one of
 19 the guns with the long clip that you were describing, that you
 20 used?
 21 A. No, it was a .9 millimeter.
 22 Q. What kind of .9 millimeter?
 23 A. An eyewitness.
 24 Q. It's called an eyewitness?
 25 A. Yes.

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1 Q. Do you know who makes it?
 2 A. Huh?
 3 Q. Do you know who makes it?
 4 A. Naw.
 5 Q. Did you pick it up on the street?
 6 A. No.
 7 Q. Did you go to a store and buy it?
 8 A. My cousin was selling guns.
 9 Q. Your cousin. Where does your cousin sell guns?
 10 A. He was selling them.
 11 Q. So you bought one?
 12 A. No, he gave me one.
 13 Q. Did you register it?
 14 A. No.
 15 Q. And you carried it around every day?
 16 A. Yes.
 17 Q. And when did you buy it?
 18 A. When did I buy it?
 19 Q. I'm sorry. When did you receive it from your cousin?
 20 A. I don't remember what day. I probably just got it maybe
 21 a month or two before I fired it. I ain't have it that long.
 22 Q. Well, the incident that led you to have to spend time in
 23 jail was in June of 1996. Do you remember that?
 24 A. Right.
 25 Q. Do you remember the exact date?

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1 A. Uh, no, I don't remember the exact date.
 2 Q. You don't remember the date that you fired those 17 shots
 3 at that police officer?
 4 A. Naw, I don't remember the date.
 5 Q. Is it not important enough?
 6 A. No, it's not important.
 7 Q. And you got sentenced to how much time for doing that?
 8 A. Eight years.
 9 Q. Eight years. And you served how much of those eight
 10 years?
 11 A. It is a whole eight years.
 12 Q. So how much have you served so far?
 13 A. Ten and a half.
 14 Q. You've got eight years for that offense and you served
 15 ten and a half.
 16 A. Well, I have two sentences, so they ran concurrent. So
 17 all together, I've been locked up ten and a half.
 18 Q. Okay. So how much more time do you have on the eight?
 19 A. Five -- no, ain't no more time. That's it.
 20 Q. So you just got time. You've done the time for that?
 21 A. I've done the time.
 22 Q. So you just want something off your federal time?
 23 A. No, off my state time.
 24 Q. What's your state time?
 25 A. Five to 15.

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1 Q. What was that for?
 2 A. Everything -- everything is federal now, but '96, we were
 3 getting two numbers in Superior Court.
 4 Q. And what is -- what are you doing that 5 to 15 for?
 5 A. Attempted murder.
 6 Q. And who was the attempted murder -- that attempted murder
 7 on?
 8 A. Ira Clayton.
 9 Q. Ira Clayton. Was that the same Ira Clayton that Black
 10 and JJ shot up -- not Black, Squid and JJ shot up?
 11 MR. GUERRERO: Objection, Your Honor, assumes facts not in
 12 evidence.
 13 MR. TABACKMAN: There was testimony on that the other day.
 14 THE COURT: From this witness?
 15 MR. TABACKMAN: From Mr. Faison, Your Honor, about how he
 16 shot Mr. Clayton while Squid was shooting Mr. Willis.
 17 THE COURT: Sustained.
 18 BY MR. TABACKMAN:
 19 Q. Where did you shoot Mr. Clayton?
 20 A. On his body?
 21 Q. Where were you when you shot Mr. Clayton?
 22 A. On Alabama Avenue.
 23 Q. And was anybody with you?
 24 A. Uh, my cousin, a guy named Funky, a tall dude named Troy.
 25 Q. Is that Troy Lewis?

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1 A. Naw. This Troy is from another neighborhood. He's from
 2 16th and W.
 3 Q. He's from 16th and W?
 4 A. Troy.
 5 Q. The one you're talking about?
 6 A. Yeah.
 7 Q. You know Troy, though?
 8 MR. GUERRERO: Objection, scope.
 9 THE WITNESS: I know Troy Lewis.
 10 BY MR. TABACKMAN:
 11 Q. He mentioned Mr. Lewis, Your Honor, when he was talking
 12 about people at the beginning.
 13 MR. GUERRERO: Objection, same objection.
 14 THE COURT: I'll allow it.
 15 BY MR. TABACKMAN:
 16 Q. Do you know Troy Lewis?
 17 A. Yes.
 18 Q. You mentioned him when you listed people in the beginning
 19 of your direct testimony today. He was with one of the names
 20 that you mentioned, of people that would be around; is that
 21 right?
 22 A. Troy?
 23 Q. Yeah.
 24 A. Well, let me correct that. Not that Troy. I said
 25 Troy Black. The Troy that I'm talking about is Troy Black.

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1 Q. So there's a Troy Black, so you weren't talking about
 2 Black as one of the people that you were --
 3 MR. GUERRERO: Objection, Your Honor.
 4 THE COURT: What was the question?
 5 MR. TABACKMAN: I'll rephrase, Your Honor.
 6 BY MR. TABACKMAN:
 7 Q. Anyway, you were talking about shooting Mr. Clayton?
 8 A. Yes.
 9 Q. On Alabama Avenue?
 10 A. Yes.
 11 Q. And when did that occur?
 12 A. That happened in '96.
 13 Q. That happened in '96, and that was before or after you
 14 fired those 17 shots at Officer Johnson?
 15 A. It was after.
 16 Q. And you used the same gun for that?
 17 A. No.
 18 Q. Why not?
 19 A. Because the gun I shot the police with, I gave it back to
 20 my cousin.
 21 Q. Did you tell him you had killed a police officer with it?
 22 THE COURT: Can you come back to the microphone so we can
 23 hear you?
 24 MR. TABACKMAN: I apologize, Your Honor.
 25 BY MR. TABACKMAN:

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1 Q. Did you tell him you had killed a police officer with it?
 2 MR. GUERRERO: Misstates the evidence.
 3 THE WITNESS: I didn't kill a --
 4 THE COURT: Hold on a second. Come on up.
 5 (Following sidebar discussion had on the record:)
 6 MR. GUERRERO: Mr. Tabackman, this is the second occasion
 7 where he used the term "murder," that this witness "murdered"
 8 someone, and now he's saying he killed a police officer. That's
 9 not accurate on the record that we have before us, and I think
 10 the witness was just about to say the same thing.
 11 THE COURT: I'm not even clear about who the "him" is,
 12 "did you tell him?" Who is the "him"?
 13 MR. TABACKMAN: His cousin. He said that he gave back the
 14 gun to his cousin.
 15 THE COURT: He did say -- answer his objection.
 16 MR. TABACKMAN: I understood from the presentence report
 17 that we were given, that the police officer was killed.
 18 MR. GUERRERO: It's inaccurate, Your Honor. It's
 19 inaccurate.
 20 THE COURT: Show it to me.
 21 MR. TABACKMAN: It's that paragraph there.
 22 THE COURT: Where is it?
 23 MR. TABACKMAN: "Officer Johnson -- he fired all 16
 24 bullets from his" -- I apologize. I thought that it said that 16
 25 bullets went into Officer Johnson. He said that he fired all 16

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1 of them in front of the officer down. And it says "An
 2 examination of the ballistics of the .9 millimeter gun matched
 3 the shell casings found at the scene of Anthony Payton's murder.
 4 THE COURT: Who is Anthony Payton, the police officer?
 5 MR. TABACKMAN: I thought that's who it was, Your Honor.
 6 I received this just a short while ago and I read it too quickly.
 7 I thought that was -- I thought this was referring to the murder
 8 of the police officer.
 9 THE COURT: Who is the police officer?
 10 MR. GUERRERO: Officer Kevin Johnson and Officer Darin
 11 Marcus.
 12 MR. TABACKMAN: It says here that "He fired all 16 bullets
 13 from his .9 millimeter gun, semi-automatic pistol. Law
 14 enforcement officials immediately responded to a call of an
 15 officer down. Mulberry disposed of his .9 millimeter" -- that
 16 was his co-defendant -- "his .9 millimeter gun and his
 17 bulletproof vest on the side of the dumpster." It says,
 18 "Damien Green began shooting at the back window of the police car
 19 numerous times and fired all 16 of bullets from his .9 millimeter
 20 semi-automatic," and then it goes down -- and says, "An
 21 examination of the ballistics of the .9 millimeter gun matched
 22 the shell casings down on the scene of the Anthony Payton
 23 murder." Officer Darin Marcus was not shot. That's one of the
 24 two police officers. And then it said he was shot in the back.
 25 And I thought that I had read that -- I received this this

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1 morning before the testimony. I obviously read it too quickly.
 2 I will clear it up.
 3 (Sidebar discussion concluded.)
 4 BY MR. TABACKMAN:
 5 Q. You didn't kill Officer Johnson; isn't that correct?
 6 A. No.
 7 Q. You did fire 17 shots at him; isn't that right?
 8 MR. GUERRERO: Objection, asked and answered.
 9 THE COURT: Sustained.
 10 BY MR. TABACKMAN:
 11 Q. And you thought that the officers were members of the
 12 Stanton Terrace crew; isn't that right?
 13 A. Correct.
 14 Q. And you were firing 17 shots at that car because you were
 15 trying to kill whoever it was from the Stanton Terrace crew;
 16 isn't that right?
 17 A. Correct.
 18 Q. And the gun that was used, that you were using that day,
 19 the one you said you got from your cousin, was also used in a
 20 murder, wasn't it?
 21 MR. GUERRERO: Objection, basis.
 22 THE COURT: Sustained.
 23 BY MR. TABACKMAN:
 24 Q. Do you know, sir, whether or not that same gun was used
 25 to kill someone else --

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1 MR. GUERRERO: Objection, scope.
 2 BY MR. TABACKMAN:
 3 Q. -- by you?
 4 THE COURT: There's an objection.
 5 MR. TABACKMAN: I'm sorry. I was trying to modify the
 6 rest of the question, to bring it into his conduct.
 7 THE COURT: Rephrase the question, then.
 8 MR. TABACKMAN: Okay.
 9 BY MR. TABACKMAN:
 10 Q. Do you know a person by the name of Anthony Payton?
 11 A. Yes.
 12 Q. Who is Anthony Payton?
 13 A. I think his name is Juney, his nickname is Juney.
 14 Q. And how do you know him?
 15 A. Uhm, he's from up Stanton Terrace.
 16 Q. Is that somebody you were beefing with when you were with
 17 Mr. Edelin's group?
 18 MR. GUERRERO: Objection, scope. Beyond the scope.
 19 THE COURT: Sustained, but just get to the point.
 20 BY MR. TABACKMAN:
 21 Q. Did you use that gun to kill Anthony Payton?
 22 A. No.
 23 Q. Did you lend that gun to someone else to kill Anthony
 24 Payton?
 25 MR. GUERRERO: Same objection, beyond the scope.

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1 THE COURT: I'll allow it.
 2 THE WITNESS: No.
 3 BY MR. TABACKMAN:
 4 Q. So you have the shooting of Officer Johnson and the
 5 shooting of Ira Clayton. Who else have you shot with that gun?
 6 A. The gun that I shot the police with, that was the only
 7 gun that I ever did a crime with. That was it. Idaho, I shot
 8 him with a different gun.
 9 Q. Okay. And what gun was that?
 10 A. It was a .40 caliber.
 11 Q. Revolver or semi-automatic?
 12 A. It was a semi-automatic.
 13 Q. How many bullets did that carry?
 14 A. Uh, maybe 10 to 15. I'm not for sure.
 15 Q. And did you empty the clip into Mr. Clayton when you saw
 16 him?
 17 A. Naw, I think I shot maybe seven, seven or eight and then
 18 I realized the gun wasn't emptied and I shot him some more.
 19 Q. You mean you stopped and reloaded?
 20 A. Naw, there was still bullets in the gun, so I finished
 21 the rest of the bullets on him.
 22 Q. Okay. You fired seven or eight?
 23 A. Right.
 24 Q. And you said you thought it was empty?
 25 A. Yeah.

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1 Q. But you discovered that it wasn't empty?
 2 A. Right.
 3 Q. So after discovering that it wasn't empty, you decided to
 4 finish off the clip in Mr. Clayton?
 5 A. Yes.
 6 Q. And what had Mr. Clayton done to you to bring that about?
 7 A. He supposed to have been testifying on me about shooting
 8 a police officer.
 9 Q. The testifying against shooting a police officer, is that
 10 the Police Officer Johnson --
 11 A. Yes.
 12 Q. -- that we're talking about?
 13 So, if I understand you correctly, you found out that
 14 Mr. Clayton was going to testify against you?
 15 A. Yes.
 16 Q. Because -- had you been arrested on the charge against
 17 Mr. Johnson -- for shooting Officer Johnson?
 18 A. Well, the police had ran in my house and searched my
 19 house. They took a lot of pictures. They locked me up for a
 20 gun that I had. It was a .380 caliber gun that I had under my
 21 bed. I knew that they was coming there for that, because when
 22 they was in my house, they was saying that I don't like
 23 policemen, while they were taking my pictures off the wall and
 24 stuff like that. That's how I knew that they was in there for
 25 that, but they didn't find the gun, so I got out the next day.

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1 Q. So, the police -- after you had shot Officer Johnson --
 2 A. Yes.
 3 Q. -- the police came to your house --
 4 A. Yes.
 5 Q. -- they had a search warrant, is that what you're saying?
 6 A. Yes.
 7 Q. And that search warrant, did that mean that they charged
 8 you -- did it state that you had committed any specific crimes?
 9 A. Naw, I didn't see the search warrant, so -- they never
 10 said I did any crimes or nothing, they just ran in my house,
 11 searched my house.
 12 Q. And what did the search warrant say they were looking
 13 for?
 14 MR. GUERRERO: Objection, Your Honor.
 15 THE COURT: Sustained.
 16 BY MR. TABACKMAN:
 17 Q. Were you at home when they came?
 18 A. Yes.
 19 Q. And were there -- how many police were there?
 20 A. Maybe 15, 20.
 21 Q. And they started looking all over your house. And they
 22 were looking for a 380 gun?
 23 A. Well --
 24 MR. GUERRERO: Objection, Your Honor, speculation.
 25 THE COURT: Sustained.

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1 BY MR. TABACKMAN:

2 Q. You had a .380 semi-automatic in your house; is that
3 right?

4 A. Yes.

5 Q. And you were hiding it?

6 A. Yes.

7 Q. And had you committed any crimes with that .380?

8 A. No.

9 Q. And they didn't find it?

10 A. Yeah, they found it.

11 Q. They found it that day?

12 A. Yeah.

13 Q. And they arrested you?

14 A. Yeah.

15 Q. And you went down to court?

16 A. Yeah.

17 Q. And you got let out the next day?

18 A. Yes.

19 Q. Okay. Now, I thought I heard you say they didn't find
20 the gun?

21 A. No, they found it.

22 Q. But you still got out the next day?

23 A. Yes.

24 Q. And then we were talking about how that linked up with
25 shooting Mr. Clayton.

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1 A. Uh --

2 Q. Let me ask you a question, then.

3 So you're back out and Mr. Clayton is aware that -- you
4 told Mr. Clayton that you had shot Officer Johnson?

5 A. No, I didn't tell him. The night that I shot the police,
6 he was out there. He was -- he was out there. He was sitting,
7 I'd say, in the yard, Brad's yard. I think in the front. He
8 was out there. The same night that I shot the police, two other
9 guys supposed to have been killing somebody that night, but by
10 me shooting a policeman, it stopped them from what they was
11 doing and that's when Idaho seen me, you know, that night, but
12 everybody thought somebody else shot the police. They didn't
13 think I did it.

14 Q. But Idaho knew --

15 A. But Idaho knew, so once he told everybody, it got out
16 there, and then he was supposed to be telling anyway. He was
17 already out there, he was supposed to be telling anyway. So by
18 that time, he had already been shot up before -- stabbed, or
19 whatever. And so at that time, once I heard that he was
20 supposed to be telling on me --

21 Q. There was nothing else to do?

22 A. There was nothing else to do.

23 Q. As you just said, like that, what else could you do at
24 that point, right?

25 A. Right.

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1 Q. Now, I take it you have a different view today of a
2 cooperating witnesses?

3 A. Do I have a different view?

4 Q. Yeah. I mean, Mr. Clayton you were afraid was going to
5 be a cooperator, right?

6 A. Well --

7 Q. Isn't it?

8 A. I'm in the same shoes he was in.

9 Q. Right. So you don't think much now the way you responded
10 to him, do you?

11 A. I mean, if I wasn't in this position, yeah, I still think
12 the same way.

13 Q. If you weren't in this position, you'd think the same
14 way?

15 A. Yeah.

16 Q. So your attitude towards the law hasn't changed, is that
17 what you're saying?

18 A. No, my attitude changed a lot. I mean, I know that I
19 can't deal with the law, as far as going up against them or
20 doing crimes no more, because of my position, but if I would
21 have never been locked up, I would still be doing the same
22 thing.

23 Q. And if you could get away with it, you'd do the same
24 thing when you get out, right?

25 A. If I can get away with it now?

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1 Q. Yeah.

2 A. Oh, naw.

3 Q. Naw?

4 A. I'm done, I can't go back to that life. I can't go back
5 to that life no more. I violated that life.

6 Q. I see. Now, so you have the shooting of Mr. Clayton, the
7 shooting of Officer Johnson, and those are the two assaults or
8 shootings that you've taken accountability for. Are there any
9 others that you have taken accountability for?

10 A. The Mark Barnes and Keith. He was with Idaho when I shot
11 Idaho. He got shot that night, too.

12 Q. He got shot. You mean you shot him?

13 A. Right.

14 Q. Right. You shot him with the same firearm?

15 A. Yes.

16 Q. Okay. And did you shoot him from behind?

17 A. He was sitting next to him. The bullet wasn't meant for
18 him.

19 Q. I'm sorry, you said -- how many shots did you say you
20 fired at Idaho?

21 A. Maybe 10 or 15. I don't recall. I know it was -- maybe
22 12. It was in that range.

23 Q. Firing that many increases the likelihood that you'll be
24 successful in hitting them, right?

25 A. I guess.

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1 Q. Well, you know that. Isn't that why you fired that many?
 2 A. I fired that many to try to kill him.
 3 Q. Right. But you didn't; is that right?
 4 A. Correct.
 5 Q. That must have been disappointing.
 6 A. Well, it can be disappointing sometimes, but you always
 7 got another day, when you living that life style.
 8 Q. And Mark Barnes, how many shots did he get? Is that his
 9 name, Mark Barnes?
 10 A. Yes.
 11 Q. And had you had any dealings with him?
 12 A. No.
 13 Q. Hadn't done anything to cross you in any way?
 14 A. No.
 15 Q. Hadn't tried to tell the police about anything that you
 16 had done?
 17 A. No.
 18 Q. Just an unlucky bystander?
 19 A. Naw, he wasn't a bystander, he was -- he used to deal
 20 with Tweety and them, too.
 21 Q. Well, on that night, he was just sitting next to wherever
 22 Idaho was, right?
 23 A. No, Mark Barnes wasn't there, it was Keith.
 24 Q. I'm sorry. It was Keith. Keith what?
 25 A. I forgot his -- Keith something. I forgot his last name.

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1 Q. So he was sitting next to Idaho when you were firing down
 2 on Idaho?
 3 A. Yes.
 4 Q. Now, when you fired down on somebody like Idaho or
 5 Officer Johnson, do you pull the trigger and all of them come
 6 out at once, pow, pow, pow, pow, pow, pow, or is it like
 7 you pull it and you stop and some come out, and -- how do you do
 8 that?
 9 A. You just keep pulling the trigger.
 10 Q. Until you can't pull it anymore?
 11 A. Until you can't pull it no more.
 12 Q. So, in the accountability that you've taken, have you
 13 written a letter to Officer Johnson?
 14 MR. GUERRERO: Objection, relevance.
 15 THE COURT: Overruled.
 16 BY MR. TABACKMAN:
 17 Q. Have you written a letter to Officer Johnson or
 18 communicated to him?
 19 A. No.
 20 Q. Have you written a letter to Mr. Clayton or his family?
 21 A. No.
 22 Q. Have you written a letter to Keith?
 23 A. No.
 24 Q. How about Mr. Barnes?
 25 A. No.

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1 Q. How did Mr. Barnes happen to get shot by you?
 2 A. He was standing in the -- he was standing with a group of
 3 guys, and we just shot at everybody who was standing over there
 4 with him, and he the one who got shot.
 5 Q. Okay. Where was he standing?
 6 A. Stanton Terrace.
 7 Q. Exactly where in Stanton Terrace?
 8 A. It's the next street over from Stanton Road.
 9 Q. And what was he doing -- did you just come up from behind
 10 and shoot at these guys?
 11 A. Yeah.
 12 Q. How many guys was he with?
 13 A. It was probably like about seven, six.
 14 Q. Were you -- how many guys were you with?
 15 A. About five, about five of us.
 16 Q. You all were armed?
 17 A. Yes.
 18 Q. Shot at all -- did you all empty your clips, do you know?
 19 A. Naw.
 20 Q. You wanted to kill the guys that were there, though?
 21 A. Yeah, I wanted to kill the guys, but I didn't fire that
 22 night.
 23 Q. Oh, I thought you hit Mark Barnes?
 24 A. Naw, I was charged with it, but I didn't hit him.
 25 Q. You didn't tell on anybody else?

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1 A. Did I tell on somebody?
 2 Q. Yes.
 3 A. Naw.
 4 Q. Did you testify against them?
 5 A. I testified against them on the conspiracy, yeah.
 6 Q. That was part of Mr. Edelin's group?
 7 A. Yes.
 8 Q. Who was with you that night?
 9 A. Uhm, I think it was Soup Bone, Rocky.
 10 Q. Soup Bone have a real name, regular name?
 11 A. Suiterman. I've forgot his last name.
 12 Q. And who's Rocky?
 13 A. Rocky, I forgot his last name, too. I can't remember
 14 everybody who was there. I can't remember. I know it was about
 15 four or five of us.
 16 Q. Okay. So that's Mr. Clayton, Mr. Barnes, Keith,
 17 Officer Johnson. Anybody else that you've assaulted know that
 18 you hit and injured firing a gun?
 19 A. That's it.
 20 Q. That's it. Have you tried on other occasions?
 21 A. Yeah.
 22 Q. How many other occasions would you say you've tried to
 23 kill somebody else using a firearm?
 24 A. I don't know. I can't count, maybe 10, 15.
 25 Q. And do you remember who some of those people were?

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1 A. A few of them was Tweety, a few of them was a couple guys
 2 from up at Stanton Terrace. One time we went around Congress
 3 Park and tried to get Cool Wop. That was it.
 4 Q. And would you just come up with this idea on your own or
 5 would you do this pursuant to direction from other people?
 6 A. Basically, it wasn't me, it was just mostly the guys that
 7 I hung with, they was more -- whatever they was trying to do, I
 8 was with them.
 9 Q. They didn't force you to bring these guns?
 10 A. Naw, they didn't force me.
 11 Q. I mean, you were with Tommy Edelin; isn't that right?
 12 A. Yes.
 13 Q. You were part of the One-Five mob; isn't that right?
 14 A. Yes.
 15 Q. And wasn't the One-Five mob for quite some time the
 16 baddest mob out there?
 17 A. Well, you can say that.
 18 Q. Would you say that? I'm asking you?
 19 A. At one point in time, yeah, but --
 20 Q. And at what point in time was that?
 21 A. From the '80s all the way up to the 90's.
 22 Q. And what made the One-Five mob the baddest mob out there?
 23 A. Before it became the One-Five mob, the name that we were
 24 using back in the day was the Young Young Crew, that was the
 25 name of the neighborhood group. It was the Young Young Crew.

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1 Q. And that was Mr. Edelin that started that, right? And it
 2 was a man by the name of Thaddeus Foster, who was part of that
 3 group?
 4 A. Yes.
 5 Q. And you became part of the Young Young?
 6 A. Well, I was real young then.
 7 Q. You were young, Young, Young?
 8 A. I was young, Young, Young, yeah.
 9 Q. So --
 10 A. Back then, you know, even though they had the Young Young
 11 Crew, they had a baby Young Young Crew, so, you know, growing
 12 up, you growing up around it, so eventually you're going to be
 13 part of it.
 14 Q. Would it be fair to say you didn't struggle too hard
 15 against being part of it?
 16 A. Huh?
 17 Q. Would it be fair to say you didn't struggle too hard not
 18 to be part it?
 19 A. Yeah.
 20 Q. You wanted to be part it?
 21 A. Yeah, I grew up around it.
 22 Q. And Mr. Edelin was clearly the person in charge; is that
 23 right?
 24 A. Uh, yeah.
 25 Q. And he would get -- one of the things that the One-Five

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1 mob did is they sold a lot of crack cocaine in the area of what,
 2 Stanton -- not Stanton Terrace -- did you have a defined area?
 3 MR. GUERRERO: Objection, basis.
 4 THE COURT: Basis, you said?
 5 MR. GUERRERO: Yes.
 6 THE COURT: Come on up.
 7 (Following sidebar discussion had on the record:)
 8 THE COURT: What do you mean?
 9 MR. GUERRERO: Basis of knowledge. He's using the
 10 One-Five mob in general terms, not naming anybody specific. When
 11 the government asked specifically who he was out there selling
 12 crack cocaine with, we always elicited specific names.
 13 What Mr. Tabackman is seeking is just a broad umbrella of
 14 One-Five members who were out there selling crack cocaine. We
 15 don't know if this witness was there with them during those
 16 times, or if he's going to be testifying about what he heard that
 17 other people were selling. If he can break it down a little bit.
 18 THE COURT: Well, the question ended up being compound,
 19 but the last part of it was, "did you have a defined area"?
 20 MR. GUERRERO: I'm sorry.
 21 THE COURT: He ought to know if he had a defined area.
 22 I'll sustain the objection as to the compound, but I'll let you
 23 put a new question.
 24 MR. TABACKMAN: Thank you.
 25 (Sidebar discussion concluded.)

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1 BY MR. TABACKMAN:
 2 Q. The One-Five mob, did it have a specific area that it
 3 felt it controlled or ought to control?
 4 A. Yes.
 5 Q. What was that?
 6 A. 15th Place.
 7 Q. 15th Place. And is that an entire block of a street, two
 8 blocks?
 9 A. It's one.
 10 Q. 15th, between where and where?
 11 A. Just one block.
 12 Q. Just one block. So 15th Place, between two other --
 13 A. Congress.
 14 Q. Between what?
 15 A. Congress and Bruce Place.
 16 Q. That was yours?
 17 A. Yes.
 18 Q. When I say One-Five mob?
 19 A. Right.
 20 Q. Now, the One-Five mob -- strike that.
 21 The crack cocaine, would you be out there doing
 22 hand-to-hands?
 23 A. Yes.
 24 Q. And there would be other members of the One-Five mob out
 25 there doing hand-to-hands?

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1 A. Yes.
2 Q. And the weight that the One-Five mob would get, so that
3 it could do hand-to-hands, was Mr. Edelin in charge of that?
4 A. Yes.
5 Q. And it flowed down through Mr. Edelin?
6 A. Yes.
7 Q. And there weren't a whole bunch of people out there
8 grabbing some here, and grabbing some there, as far as you knew,
9 in the One-Five mob?
10 A. Well, you had some that was in the neighborhood that --
11 like Doon, he was fronting people on his own.
12 Q. When you say "he," meaning Mr. Edelin?
13 A. No, Doon.
14 Q. Who is Doon, do you know?
15 A. Doon. He was a guy who lived on 15th. He was fronting
16 people on his own. I mean, you had different people fronting
17 people in the neighborhood. I might get some from Doon, I might
18 get some from Squid. I might get some from my cousin, but it's
19 all the same -- it's all the --
20 Q. It's all -- I'm sorry?
21 A. It all boils down to the same.
22 Q. From Tommy?
23 A. Yeah.
24 Q. And did -- to your knowledge, did the other members of
25 the One-Five mob, did you see them carrying guns, regularly?

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1 A. Just the ones who had beefs.
2 Q. Well, the ones that you would see -- did Mr. -- when you
3 would see -- did you see Eric Jones regularly?
4 A. Yes.
5 Q. Daily basis, almost?
6 A. Yes.
7 Q. When you would see Eric Jones, would he usually have a
8 firearm, so far as you knew?
9 A. Yes.
10 Q. Okay. And Mr. Jones was one of Mr. Edelin's closest
11 associates; is that right?
12 A. Yes.
13 MR. GUERRERO: Objection, Your Honor, beyond the scope.
14 THE COURT: Sustained.
15 BY MR. TABACKMAN:
16 Q. And when Black -- Maurice Willis?
17 A. Yes.
18 Q. Would you see him on a daily basis?
19 A. Yes.
20 MR. GUERRERO: Same objection, beyond the scope.
21 THE COURT: Overruled.
22 BY MR. TABACKMAN:
23 Q. And based on your knowledge, what you know, would he have
24 a gun with him every day?
25 A. Yes.

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1 Q. Okay. And Bradley Carter, was he part of One-Five?
2 A. Yes.
3 Q. Okay. And was he a good friend of yours?
4 A. Yes.
5 Q. And you would see him almost every day?
6 A. Yes.
7 Q. And to your knowledge, would he carry a gun with him
8 every day?
9 A. Off and on.
10 Q. Okay. Not quite as regular?
11 A. Right.
12 Q. Was Mr. Edelin also the source of the guns that you would
13 get?
14 MR. GUERRERO: Objection, scope.
15 THE COURT: Sustained.
16 BY MR. TABACKMAN:
17 Q. And back in 1990 -- you were born in 1977; isn't that
18 right?
19 A. Correct.
20 Q. January?
21 A. Yes.
22 Q. Okay. So you're 30 now?
23 A. Yes.
24 Q. So in 1990, you were 13?
25 A. Yes.

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1 Q. By January 10th, you had had your birthday, you turned
2 13, right?
3 A. Yes.
4 Q. And you said that 1990 is when you basically started
5 being out on the street doing -- selling drugs?
6 A. Correct.
7 Q. Okay. And you'd be out there every day?
8 A. Yes.
9 Q. You'd load up in the morning?
10 A. No, not really. I mean.
11 Q. Did you keep a stash?
12 A. Yeah.
13 Q. Okay. So -- and you'd be out there on the street. Did
14 you have a stash out on the street somewhere, in somebody's
15 house?
16 A. No, in my house.
17 Q. In your house, and where would you go to load up with
18 your drugs that you were going to sell?
19 A. If I'm going to get more drugs?
20 Q. Yeah.
21 A. Well, I'd call my cousin. I had homies that looked out
22 for me.
23 Q. Well, when you were out there in the One-Five mob -- when
24 you were 13, you weren't part of One-Five, were you?
25 A. It wasn't that I was a part of One-Five -- you see, you

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1 have to understand, One-Five, it's more of a throw off from 15th
 2 Place, so when you go back to the 80s, when they had the Young
 3 Young Crew, you have a lot of guys that still live around there.
 4 They're still from there, so by us not being a Young Young Crew
 5 anymore, so now they're naming the street. So instead of saying
 6 15th Place, you say the One-Five, and where it turn off at, when
 7 you go to GoGo clubs, people, they name their streets, so that's
 8 where the One-Five came from, but it's a throw off from the
 9 Young Young Crew. So, most of the guys that grew up around
 10 there or was raised from Stanton Terrace, 15th Place, Congress
 11 Park, Parkland, you had -- you got some guys that live in them
 12 neighborhoods was in the Young Young Crew.
 13 **Q.** Right.
 14 **A.** So you can say -- you can say some of the guys around
 15 Congress Park is part of One-Five, if you want, because if you
 16 trying to say that's a throw off from the Young Young Crew, then
 17 they are, because Antwuan was in the Young Young Crew, Jo-Jo was
 18 in the Young Young Crew.
 19 **MR. GUERRERO:** Objection, Your Honor, the witness hasn't
 20 finished his answer.
 21 **THE WITNESS:** So they all were part of the Young Young
 22 Crew.
 23 **MR. TABACKMAN:** Your Honor, I asked him what I thought was
 24 a narrower question and I was trying not to cut him off and not
 25 be polite.

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1 **THE COURT:** You may.
 2 **MR. TABACKMAN:** What's that?
 3 **THE COURT:** You may.
 4 **MR. TABACKMAN:** Well, thank you.
 5 **BY MR. TABACKMAN:**
 6 **Q.** What I was asking you was when you get your drugs and
 7 when you would reload, would you get them from Mr. Edelin?
 8 **A.** No.
 9 **Q.** Okay. Would you get them from one of Mr. Edelin's
 10 associates?
 11 **A.** No, I would get it from his father.
 12 **Q.** From his father?
 13 **A.** Yes.
 14 **Q.** And that's Earl Edelin?
 15 **A.** Right.
 16 **Q.** Known as Tony Edelin, right?
 17 **A.** Right.
 18 **Q.** And when you would reload, you would have to go to him to
 19 get them; is that right?
 20 **MR. GUERRERO:** Objection, Your Honor, scope.
 21 **THE COURT:** Sustained.
 22 **BY MR. TABACKMAN:**
 23 **Q.** So you're out there. From 1990 to 1996, you are out on
 24 the street every day selling drugs?
 25 **A.** Correct.

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1 **Q.** Okay. And that -- you would be with Mr. Carter
 2 sometimes?
 3 **A.** Yes.
 4 **Q.** Mr. Willis?
 5 **A.** Yes.
 6 **Q.** Squid?
 7 **A.** Yes.
 8 **Q.** And when y'all weren't out there on the street selling
 9 drugs, you were hanging together; isn't that right?
 10 **A.** No.
 11 **Q.** What would you be doing with them? Would you be with
 12 them regularly?
 13 **A.** Well --
 14 **Q.** I think --
 15 **A.** All of us hung on One-Five. All of us claimed One-Five,
 16 but the group of guys that I hung with was Squid, JJ, Mark,
 17 Honky, Cooler, AD, Blue, Waluck and that was it. Now, Eric and
 18 all them, Brad, Black, Pooh, all them was part of One-Five. We
 19 would come around and holler at Eric and chill with them, but
 20 they done they thing and we done our thing, but when it came
 21 down to a beef, if it's with both of us, then we'd all come
 22 together, and that's how we come together.
 23 **Q.** So -- but one night you are with Brad and Pooh and this
 24 fellow from outside the area. Would you say his name was Brick?
 25 **A.** Who?

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1 **Q.** There was a night when you were over at Monkey Mark's
 2 house, right?
 3 **A.** Correct.
 4 **Q.** Would you go to Monkey Mark's house lots of nights?
 5 **A.** Basically, every night.
 6 **Q.** That was the place to go?
 7 **A.** Correct.
 8 **Q.** And when you would go over there, you'd play video games?
 9 **A.** Play video games, watch basketball, watch football, use
 10 the phone, use the bathroom.
 11 **Q.** Smoke some weed?
 12 **A.** No, we ain't never smoke no weed in there.
 13 **Q.** Where would you go to do that?
 14 **A.** You'd go outside.
 15 **Q.** Okay. Did you ever use any other drugs inside
 16 Monkey Mark's?
 17 **A.** Naw.
 18 **Q.** All right. And when you would go over to Monkey Mark's,
 19 your friends would be there, the guys that you were talking
 20 about, right?
 21 **A.** Correct.
 22 **Q.** All right. So there's this night that Brad's over
 23 there --
 24 **A.** No, Brad's not in there. Brad lived next door.
 25 **Q.** Brad lived next door. And Black is over there with you?

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1 A. No.
 2 Q. Do you remember a night -- strike that.
 3 When was the last time, prior to the last few weeks, you
 4 talked about the incident where -- that you testified to today
 5 about Mr. Carter and getting shot?
 6 A. I testified on the case about it, I think. I think I
 7 told Mr. Steve Phleger about it.
 8 Q. And when was that?
 9 A. This was '98.
 10 Q. When?
 11 A. '98.
 12 Q. '98. So since the time you have talked about it, have
 13 you talked about it much, prior to very recently?
 14 A. Naw, the last time I talked about it was 2001.
 15 Q. Okay. That's when you testified in Mr. Edelin's trial?
 16 A. Yes.
 17 Q. So that's been six years ago?
 18 A. Yes.
 19 Q. Okay. Now, when you -- how did it come up again most
 20 recently, before this trial?
 21 A. Uhm --
 22 Q. Did you get a call -- let me ask you a direct question,
 23 rather than a narrative. Did you get a call from the
 24 prosecutors?
 25 A. No.

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1 Q. Did you get a call from the FBI?
 2 A. What happened was, I called my agent. I talked to my
 3 agent, and we was talking.
 4 Q. Your agent, meaning your probation --
 5 A. No, when I say "agent," that means FBI.
 6 Q. You have an agent that's assigned to you?
 7 A. Yes.
 8 Q. Okay. And what's that person's name?
 9 A. Gus.
 10 Q. All right. Agent Gus, bald headed guy?
 11 A. Yes.
 12 Q. Okay.
 13 A. And he was talking to me because --
 14 Q. Don't tell me what he said.
 15 A. Well, yeah, I talked to him.
 16 Q. Well, let me ask you this: You were asked to come
 17 testify in this trial?
 18 A. Yes.
 19 Q. Was Gus the first person to raise the possibility of your
 20 testifying in this trial?
 21 A. Yes.
 22 Q. Okay. And did he mention anything in particular, just
 23 answer this yes or no, anything in particular that they wanted
 24 you to testify about, meaning subject area?
 25 A. Naw. When I talked to him, he was like, we might need

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1 you to testify. And I was like, "all right," so he was like,
 2 just tell what you know.
 3 Q. Just tell what you know?
 4 A. That's it.
 5 Q. And when did that -- when did you have that conversation
 6 with Mr. -- with Gus?
 7 A. This was maybe last year -- it was last year sometime, it
 8 was early last year sometime.
 9 Q. Okay. Now, since that time when you had that
 10 conversation with Gus, have you talked to any other agents about
 11 that?
 12 A. No.
 13 Q. Okay. And did you go to the office -- or meet with the
 14 U.S. Attorney, Mr. Guerrero, or someone in his office, in the
 15 last couple weeks to talk about the questions that would be
 16 asked of you?
 17 A. I don't think it was a couple of weeks. I think it was
 18 probably a few months. I think it was probably a month or two.
 19 Might have been longer than that, but I know after I talked to
 20 Gus, he told me he would come and see me and that was the last
 21 time I talked to him, and then he came to see me.
 22 Q. And how long after his first contacting you from last
 23 year passed before he came to see you?
 24 A. Say that again.
 25 Q. He contacted you, said early last year, and said "We may

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1 need to you testify in a trial," right?
 2 A. Right.
 3 Q. And then he came and he called you and he came to see you
 4 at some point, you just said?
 5 A. Correct.
 6 Q. How much time passed? Was it months later?
 7 A. After he came to see me?
 8 Q. Between when he first contacted you and then came to see
 9 you?
 10 A. Might have been -- maybe two months.
 11 Q. So that was still last year?
 12 A. Yeah.
 13 Q. Okay. Now, this year -- I'm talking about in preparation
 14 for this trial, you met with the lawyers; isn't that right?
 15 A. Correct.
 16 Q. Okay. And I believe you met with Mr. Guerrero three or
 17 four times; isn't that right?
 18 A. Correct.
 19 Q. And that was in the past week?
 20 A. I think I met him when I got here, when I came back to
 21 D.C.
 22 Q. Okay. And when was that?
 23 A. That was -- I left.
 24 Q. Don't say where you left from.
 25 A. Tuesday. Tuesday.

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1 Q. Today is Thursday, so that was two days?
 2 A. I met him on the phone, and Tuesday.
 3 Q. Day before yesterday?
 4 A. Yeah.
 5 Q. Okay.
 6 A. I met him on the phone, and Tuesday I met him in person.
 7 Q. Okay. And then -- so you met with him. Where did you
 8 meet with him on Tuesday?
 9 A. In a conference room.
 10 Q. Okay. At CTF?
 11 A. Naw, here.
 12 Q. All right. And you talked about the subjects that you
 13 would be asked about, didn't you?
 14 A. Correct.
 15 Q. And one of them was the incident with Mr. Carter; isn't
 16 that right?
 17 A. Correct.
 18 Q. And did he show you any exhibits -- you know, during
 19 your -- strike that.
 20 During your testimony, you've been shown exhibits, right?
 21 A. Correct.
 22 Q. Pictures, shown the map and all of that, right, during
 23 your testimony here, you've been shown those things?
 24 A. Oh, yeah. Correct.
 25 Q. Now, in preparation -- in these meetings that you had,

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1 A. Yes.
 2 Q. And was he in a heavy coat?
 3 A. I don't remember if he was in a heavy coat. I know he
 4 was running and he was sweating. He was hyped. He was tired.
 5 Q. Did you talk about the way Mr. Carter was with
 6 Mr. Guerrero over the last several days, when you met with him?
 7 A. Yes.
 8 Q. He asked you to describe him?
 9 A. Yes.
 10 Q. Did anybody suggest words you might use to better
 11 describe him?
 12 A. No.
 13 Q. Hyped is your word?
 14 A. Yes.
 15 Q. Any other words you would use to describe him?
 16 A. Yeah. I mean his blood was flowing, that's the only
 17 thing I could say.
 18 Q. What do you mean "his blood was flowing"?
 19 A. That means he's hyped, when your blood is flowing, that
 20 means you're running, that means you've got your blood flowing
 21 so when you're saying it's flowing, that's where it comes from.
 22 Q. Now, your understanding was -- what time of night did
 23 they leave?
 24 A. It's -- it was at nighttime. It was between probably
 25 9 -- between 9 and 11, probably.

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1 did he do the same thing with you there?
 2 A. Well, he showed me maps. He showed me maps.
 3 Q. He showed you the picture of Brad's car?
 4 A. Yes.
 5 Q. Right. Had you remembered what kind of car he had?
 6 A. Yes.
 7 Q. You had?
 8 A. Yes. The only thing I was off on was the color. I knew
 9 it was champagne or gold. I just don't know what color exactly
 10 it was.
 11 Q. Now, that night, did you talk about the date of that
 12 event?
 13 A. I don't remember.
 14 Q. You don't remember?
 15 A. I don't remember what day it was. I don't remember what
 16 date. I know it was wintertime, though.
 17 Q. And you know that because?
 18 A. Because it was cold.
 19 Q. Well, fine. What else do you remember about that
 20 evening, other than it was cold?
 21 A. That was it.
 22 Q. Do you remember what Mr. Carter was wearing?
 23 A. No.
 24 Q. Well, you had said when you saw him, he was sweating,
 25 right?

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1 Q. Nine and 11. You don't remember?
 2 A. I don't remember the exact time. I know it was
 3 nighttime. It wasn't real past, it wasn't past 12.
 4 Q. Could it have been 8?
 5 A. Naw, it was at nighttime. I know it was between 9 or 11.
 6 It was in that range.
 7 Q. In that range. And what were you guys doing before they
 8 left the house?
 9 A. Well, what happened was, we was all outside. They pulled
 10 up. Mark and them was going inside they house, so Brad came out
 11 his house and he was going to the car. So I was like, "Where
 12 y'all going at?"
 13 Q. Let's try not to do it all in a narrative, because it's
 14 hard for Mr. Wallace and for everybody to follow.
 15 You're over at -- where is your house in relation to
 16 Monkey Mark's house?
 17 A. About two blocks over.
 18 Q. Okay. So you come over to his house that night. Do you
 19 remember what you were doing before you went over there?
 20 A. I went over Mark's house so many times, the only thing to
 21 do but to drink and smoke cigarettes and talk trash to each
 22 other.
 23 Q. Hard to separate one of those nights from another, right?
 24 A. Yeah.
 25 Q. When you get over there, when you get there, it's hard to

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1 remember who's there?
 2 A. What, at Mark's house?
 3 Q. When you get there that night, that particular night --
 4 A. Naw, it's never hard because it's based on the same
 5 people there every day.
 6 Q. Well, but we're talking about a particular event that
 7 happened on a particular night, so I'm asking you if you can
 8 remember who was there on that night?
 9 A. I can remember. The only reason I say that is because
 10 Brad and Black and them don't come in Mark house. So you might
 11 as well put them out of there. It's only me, Squid, JJ, Mark,
 12 AD, Honky, Cooler.
 13 Q. And were those guys -- were those guys over at Mark's
 14 house that night?
 15 A. Yes, that's it.
 16 Q. All of them were over at Mark's house?
 17 A. I don't think Squid was there. I don't think Squid was
 18 there, and I don't think AD was there. I think it was just me,
 19 JJ, Honky and Cooler.
 20 Q. So Brad and Black just showed up?
 21 A. They ain't showed up at Mark house. Brad live next door.
 22 Q. So they came next door?
 23 A. No. By all -- all of us was outside. Black and them
 24 pulled up in the car. Brad came out his house. So I was asking
 25 Brad, where y'all going? They said they're going to the liquor

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1 store.
 2 MR. MARTIN: Objection. Objection.
 3 THE COURT: Hold on when there's an objection.
 4 MR. MARTIN: Objection as to what they said.
 5 THE COURT: Sustained.
 6 BY MR. TABACKMAN:
 7 Q. As far as you knew, they went off to the liquor store; is
 8 that right?
 9 A. Yes, so I gave Brad some money to bring some beer back.
 10 Q. Right. Now, Monkey Mark lives on what -- what's his
 11 address?
 12 A. I don't know his address, but he live on Stanton Road.
 13 Q. Stanton and what?
 14 A. Stanton Road.
 15 Q. Well, Stanton Road is a fairly long street, isn't it?
 16 A. Stanton Road -- it's Stanton Road coming from Suitland
 17 Parkway and Alabama Avenue. As a matter of fact, it's right on
 18 the top of Congress Place.
 19 Q. Stanton Road at the top of Congress. Okay. And what --
 20 did you know, without saying what they told you, do you know
 21 what liquor store they went to or were going to?
 22 A. No. I think they were going to 51.
 23 MR. MARTIN: Objection.
 24 THE COURT: Sustained.
 25 BY MR. TABACKMAN:

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1 Q. And how far is 51 from -- walking or driving -- can you
 2 walk there from where Monkey Mark lives?
 3 A. Yeah, you can walk to the 51.
 4 Q. How long would it take to walk?
 5 A. About 30 minutes.
 6 Q. Thirty minutes. Okay. And where is Greater Southeast
 7 Hospital? Do you know where that is?
 8 A. Yeah.
 9 Q. Where is that?
 10 A. It's about -- the same thing, about 30 minutes away.
 11 Q. And in the same direction as 51?
 12 A. You can go to 51 in the same direction as you're going to
 13 Southeast Community, but 51 is left and Southeast Community is
 14 right.
 15 Q. Okay. And about half an hour walk to Greater Southeast
 16 from where you are or longer?
 17 A. No, same thing. Because both of them --
 18 Q. So about 30 minutes. Okay. And to run from Greater
 19 Southeast back to Monkey Mark's, if you were going to do it,
 20 back in those days, how long would it take you?
 21 MR. GUERRERO: Objection, speculation.
 22 THE COURT: I'll allow it.
 23 MR. TABACKMAN: I'm sorry?
 24 THE COURT: Sustained. Rephrase.
 25 BY MR. TABACKMAN:

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1 Q. Do you know how long it would take you to run from
 2 Greater Southeast to Monkey Mark's?
 3 A. Well, I wouldn't run, but if it take about 30 minutes to
 4 walk, I guess it could take about 20 minutes, 15 minutes
 5 running.
 6 Q. It's not a run that you would take?
 7 A. No.
 8 Q. Because it's a long run?
 9 A. I mean, it's long, but it's not that long. You can ride
 10 a bike and be there in no time.
 11 Q. And if you were -- if you were going to run it yourself,
 12 you'd get sweaty, wouldn't you?
 13 A. Yeah, if I get shot and I ain't trying to go to jail,
 14 because I'm on the run, yeah I'm going to run, too.
 15 Q. And as far as you knew, Brad was running to keep from
 16 going to jail?
 17 A. Yes.
 18 Q. That's what he was concerned about?
 19 A. Yes.
 20 Q. And so he ran all the way home from Greater Southeast?
 21 A. Yes.
 22 Q. Did you know Brad to be a particularly good athlete?
 23 A. Well, Brad, he wasn't a good athlete, but he was a big
 24 guy, he played basketball, he exercised.
 25 Q. Now, if you're over to 51 and you had to go over to

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1 Greater Southeast -- have you ever driven that way?
 2 **A.** Driven from 51 to Greater Southeast?
 3 **Q.** Greater Southeast.
 4 **A.** Yeah.
 5 **Q.** How long would that take?
 6 **A.** Ten minutes, not even ten minutes. It's a straight shot
 7 from the liquor store to Greater Southeast. Ain't nothing but,
 8 like -- not even ten minutes. You might get there in five
 9 minutes if the light don't stop you.
 10 **Q.** And then?
 11 **A.** That's it.
 12 **Q.** And then you run back?
 13 **A.** Run back where?
 14 **Q.** It's your understanding that Mr. Carter ran back from the
 15 hospital?
 16 **A.** Oh, you said from the liquor store to Greater Southeast,
 17 you didn't say from his house to Greater Southeast.
 18 **Q.** No. I'm sorry, I didn't mean to confuse you. I'm just
 19 trying to get an idea of --
 20 **MR. TABACKMAN:** Your Honor, this would be a place to break
 21 if we can.
 22 **THE COURT:** All right, ladies and gentlemen, we'll break
 23 for the weekend. Today's Thursday, so we don't sit tomorrow.
 24 Please come back on Monday promptly at 9:00. Remember to take
 25 your notes back in the jury room where you can leave them and

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1 please don't talk about the case, but enjoy your break. Have a
 2 safe trip home. We'll see you Monday at 9.
 3 (Jury out at 4:59 p.m.)
 4 **THE COURT:** All right. The defendants can be excused.
 5 Counsel, do you have anything I need to take up?
 6 **MR. BALAREZO:** One very brief scheduling matter that I
 7 think won't be a problem. On Monday at 9, I have a matter with
 8 Judge Walton, but I think Mr. Purpura will be here on Monday just
 9 in case I'm late.
 10 **THE COURT:** Thank you. All right.
 11 **MS. PETALAS:** Your Honor, I want to alert the Court. I
 12 did file a motion to reconsider, with some additional case cites
 13 regarding the issue of the admissibility of the grand jury
 14 transcripts. It was filed during the course of the day, and I
 15 gave Ms. Redmond a copy as well. I can raise it now or if the
 16 Court would like, I can do it Monday. I don't think we're going
 17 to have the transcript -- I've handed a copy to Mr. Balarezo, but
 18 I can discuss it now or we can wait until Monday. I don't think
 19 we're going to introduce the grand jury transcripts -- well, I
 20 just raised that with the Court.
 21 **THE COURT:** Anything else?
 22 **MS. WICKS:** Your Honor, what I was trying to put on the
 23 record this afternoon was through the vast majority of the direct
 24 this afternoon of the witness, my client could not see the
 25 witness. I asked Mr. Guerrero to adjust himself, but even after

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1 that, Mr. Wilson could not see the witness, and that's what I was
 2 trying to approach about. I know that sometimes this gets moved
 3 and apparently it had gotten moved to a point that -- normally my
 4 client can see the witness, but my client could not see the
 5 witness for the vast majority of this afternoon. I'll try to
 6 adjust it again on Monday, but when it gets moved in the middle
 7 of the day, that's what I was trying to approach about.
 8 **MR. ZUCKER:** Just a reminder on the scheduling matter.
 9 4:00 -- actually this Wednesday, you agreed that I could leave
 10 early, and -- 3:45 or 4, something like that.
 11 **MR. GUERRERO:** Your Honor, I have an ex parte matter at
 12 the end of the day.
 13 **THE COURT:** Before I take that up, anything else?
 14 **MR. BALAREZO:** Have a good weekend.
 15 **THE COURT:** Mr. Balarezo, that what you wanted to mention
 16 before you got off?
 17 **MR. BALAREZO:** No, nothing related to this, just a comment
 18 for another time.
 19 **THE COURT:** Okay.
 20 **MR. BALAREZO:** I'll save it for some other time.
 21 **THE COURT:** All right.
 22 **MR. GUERRERO:** Your Honor, I would ask that this matter be
 23 under seal.
 24 **THE COURT:** All right, this bench conference will be
 25 sealed.

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1 **(Following further proceedings sealed by order of the**
 2 **Court.)**
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(Previously designated sealed proceedings concluded.)

CERTIFICATE

I, Scott L. Wallace, RDR-CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

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EXAMINATIONS

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BY MR. GUERRERO
CROSS-EXAMINATION OF DAMIEN GREEN 13843
BY MR. TABACKMAN

EXHIBITS

DESCRIPTION

Page

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 Plaintiff, : Docket No. CR 05-100
 v. :
 :
 ANTUWAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : June 4, 2007
 DOMINIC SAMUELS, : 9:30 a.m.
 Defendants. :
 :
 :

VOLUME 60 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

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Proceedings reported by machine shorthand, transcript produced
 by computer-aided transcription.

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1 MORNING SESSION, JUNE 4, 2007
 2 (9:31 a.m.)
 3 THE COURT: We're still, I think, missing three jurors,
 4 but I thought we would keep hope alive and be ready as soon as
 5 they get here. Let me just ask, the witness for whom we had
 6 issued the contempt citation is going to be the next witness?
 7 MR. GUERRERO: Yes, Your Honor.
 8 THE COURT: And it may be too much to ask if defense
 9 counsel anticipates completing cross-examination of the current
 10 witness today?
 11 MR. MARTIN: I think so.
 12 MR. TABACKMAN: I may have another -- I probably have a
 13 half hour, 45 minutes.
 14 MR. ZUCKER: I anticipate nothing.
 15 MR. BALAREZO: And the same for us.
 16 MR. BEANE: Maybe three minutes.
 17 MS. WICKS: I have extensive cross, but I can't imagine it
 18 would go all day.
 19 MR. ZUCKER: Can I have a minute with the prosecutors?
 20 THE COURT: Yes. This will be off the record.
 21 (Discussion had off the record.)
 22 MR. ZUCKER: I just consulted with Mr. Guerrero.
 23 THE COURT: Yeah.
 24 MR. ZUCKER: And it may become moot if in fact the next
 25 witness is Mr. Ewing, and that's the person who's -- they're

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1 having trouble locating. We just learned of Mr. Ewing being a
2 witness on either Thursday night -- and got his *Jencks* on Friday.
3 Frankly, I was going to object to it. If they're going to
4 call him today, I'm going to object anyway. We didn't get our
5 three days and there is some investigation that we've been
6 diligently pursuing over the weekend, but unable to complete. So
7 I would ask -- if he was going to be the next witness, I would be
8 objecting anyway because we're not prepared to cross him and we
9 didn't get our three days and we just found out about him,
10 frankly, on Friday. Might have been Thursday night.

11 I think I asked Mr. Leon and if Ewing was even going to be
12 a witness in the trial. And he did say, well, he anticipated he
13 likely would.

14 MR. TABACKMAN: I have a completely different matter, Your
15 Honor, unless you want to hear from the government first.

16 THE COURT: Okay. Let me ask you to hold on one second.
17 (Discussion had off the record.)

18 THE COURT: Yes.

19 MR. GUERRERO: Good morning, Your Honor, if I could just
20 briefly respond. John Ewing is our next expected witness after
21 Damien Green. We released the name John Ewing last week and his
22 discovery, his *Jencks* package was also released last week, in
23 accordance --

24 THE COURT: Meaning Friday?

25 MR. GUERRERO: Yes, on Friday, in accordance with our

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1 other *Jencks* disclosures, as we've been doing regularly
2 throughout this trial. So we have complied with our obligations
3 of disclosure and *Jencks* disclosures as well.

4 This witness should come as no surprise to Mr. Zucker.
5 It's a 1997 shooting, which was filed before in Superior Court.
6 James Faison has testified about this event as well. The
7 discovery has been released well in advance of Friday, which
8 includes the police reports and a 9-1-1 call by Mr. Ewing.

9 So we think that the defense has had ample opportunity to
10 be prepared for this witness and we see -- we would ask the Court
11 not to delay the Government's presentation of Mr. Ewing today, in
12 part also because Mr. Ewing is under a citation for contempt, so
13 we would like to get him on and off as soon as possible.

14 MR. ZUCKER: The only brief addition I would make is we
15 were given a line-up of witnesses last week, of this is the order
16 we expect to go and Ewing was not on it. There are several
17 witnesses that have not been called. So frankly, when I got the
18 *Jencks* on Friday, I assumed they were going to stay in order and
19 that Ewing would be called at the end of that.

20 THE COURT: All right. Well, Mr. Tabackman, did you have
21 something else?

22 MR. TABACKMAN: Yes, Your Honor. It has to do with the
23 cross-examination, something I wanted to raise preliminarily. I
24 though the Court might have been -- I didn't know if the Court
25 was ready to have me proceed.

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1 Your Honor, there is --

2 THE COURT: Actually, now that you ask, it may be well, if
3 the defendants are here, we can probably bring them on out in the
4 hope that we'll have all of our jurors soon.

5 Go ahead.

6 MR. TABACKMAN: There is a very brief area of
7 cross-examination of this witness that is outside the scope of
8 direct examination, but clearly, I believe, evidence of bias.
9 And I wanted to, rather than have it come up and start asking the
10 questions and elicit an objection and then have it, you know,
11 dealt with at the bench that way, if I could raise it in advance.

12 And it has to do with this. And I'm tempted to say
13 that -- well, I'm tempted to raise it ex parte, but I don't have
14 any problem with this, just raising it now because the government
15 will probably have to respond.

16 Mr. Green testified in the case of *United States versus*
17 *Tommy Edelin* and he testified to a number of things, including
18 his relationships and conversations he had with a number of the
19 defendants that were on trial there. One of those defendants was
20 a -- last name of Marbury and had a nickname -- he was nicknamed
21 after a Korean grocery store, Wah Luck, W-A-H-L-U-C-K, and he was
22 the person -- probably the shooter who killed another person by
23 the name of Tweety, who's name has come up in this trial. It's
24 Edgar Watson.

25 And there's testimony in the Edelin case that this witness

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1 is with Wah Luck driving down the street and they are, in effect,
2 flagged down by Tweety. And Wah Luck goes over and has a
3 conversation with Tweety. Green doesn't know the precise
4 substance of it. The implication is -- and we're not going to
5 get into that. The implication of it is that Tweety tells Wah
6 Luck something about something that had happened to Wah-Luck's
7 family members. Wah Luck comes back to Mr. Green and says, "I'm
8 going to kill him." That's Mr. Green's testimony.

9 And the prosecutor, Mr. Quander, asks this witness -- let
10 me get the precise page cite.

11 I don't know if Mr. Guerrero has the transcript from the
12 Edelin trial, but it's volume 64, page 13878, begins at line 22:

13 "Question: When Wah Luck got back into that car on 15th
14 Street after talking to Tweety and he said that he was going to
15 kill him, did you have any doubt in your mind that that's exactly
16 what Wah Luck was going to do?"

17 There's an objection from Wah-Luck's counsel that is
18 sustained and the prosecutor then goes on:

19 "Question: How well did you know Wah Luck?"

20 "Answer: I've known -- I knew him all my life.

21 "Question: How much time did you spend with Wah Luck?"

22 "Answer: How much time did I spend with him?"

23 "Question: Yes.

24 "On an everyday basis.

25 "Question: Have you ever known Wah Luck to make idle

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1 threats or just make threats in random?
 2 "Mr. Moore: Same objection, Your Honor."
 3 And on this occasion, it's overruled and it goes on.
 4 "Mr. Quander: Question: Have you ever known Wah Luck
 5 just to make random threats and didn't mean them?
 6 "Answer: Only if he mad, if he mad at you about
 7 something. I mean --
 8 "Question" -- and he cuts him off and says: "Okay.
 9 Listen to my question now. Have you ever known" --
 10 There's objections. The witness is answering the
 11 question. The Court overruled and the question is then put:
 12 "Have you ever known Wah Luck to make an idle threat, to
 13 say something about a threat and not mean it, is what I'm saying?
 14 "Answer: If he say it, he mean it."
 15 And I suggest that that is a clear indication -- the
 16 witness answered the first time and says he's just heard -- he
 17 comes back and said, "I'm going to kill this guy" and he's angry.
 18 And the witness's first answer starts to be, to the question,
 19 "Does this guy ever make idle threats," "Only if he's mad, if he
 20 mad at you about something. I mean" -- he's clearly cut off and
 21 the question is: "Okay. Listen to my question. Have you ever
 22 known" --
 23 And then after we get through the objection: "Answer: If
 24 he say it, he mean it."
 25 And we think that that's a clear indication of the

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1 witness's willingness to modify his testimony to meet clear
 2 prosecution goals.
 3 I mean, there's -- maybe there's a weight question and I
 4 wrestle with whether it's worth it, but I think the admissibility
 5 for bias is clear. And I wanted to raise it at this point rather
 6 than, as I said, in the middle of the examination so that it
 7 wouldn't -- the Court wouldn't be hit with it in the context of
 8 it looks like they're getting off into the details of the Edelin
 9 trial and with a prosecution objection, I just wanted to raise it
 10 up front.
 11 MR. GUERRERO: Good morning, Your Honor. The government
 12 does object to that line of questioning. And first, we'd start
 13 with the relevance. We're talking about a conversation that
 14 Damien Green has with Wah Luck regarding Tweety, which is
 15 separate and apart from the case before the Court and the case
 16 before the jury. It's an incident where Wah Luck is describing
 17 to Damien Green some incident that happened to Wah-Luck's family
 18 and that caused trouble between Wah Luck and Tweety. How that is
 19 relevant to this trial or the subject matter that the government
 20 posed on direct -- we just don't see a close enough nexus.
 21 I believe Mr. Tabackman is going the towards showing bias,
 22 that perhaps because Damien Green says, "If Wah Luck says it,
 23 then he means it," that that somehow shows that Damien Green is
 24 willing to curry favor with the government by making that
 25 statement before a jury.

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1 And again, we don't see the close enough nexus for him --
 2 for Damien Green to somehow be trying to curry favor in answering
 3 in that fashion.
 4 If the Court is considering that testimony, even if there
 5 is some small piece of relevance to this trial, we still would
 6 ask the Court to deny that line of questioning because we're
 7 going to talk about levels of hearsay that we don't see how that
 8 would permit that line of questioning to come in without going
 9 into the conversations that Wah Luck has with Tweety, the
 10 conversation that Wah Luck has with Damien Green in order for the
 11 defense to be able to elicit that line of testimony.
 12 And then lastly, it would start what we're trying to avoid
 13 here, which is different avenues of mini trials in order for the
 14 defense to be able to elicit that. Then the government is caught
 15 on redirect trying to go into that same subject matter and we get
 16 into a completely different issue, derailed from the facts of
 17 this case, confusing to the jury and probably not the best use of
 18 the witness's time before the jury.
 19 And so we would ask the Court to deny that line of
 20 questioning, based on those comments.
 21 MR. TABACKMAN: Again, as for the hearsay problem, we're
 22 not at all interested in having this introduced for the truth of
 23 the matter that Wah Luck did or did not intend to kill Tweety, so
 24 that is beside the point. It's not for that at all. And nor are
 25 we getting into an argument as to whether or not there was an

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1 issue between Wah Luck and Tweety in the sense -- substantively.
 2 The context here is Mr. Green testifies that he's with
 3 him. Wah Luck goes and has a conversation with Tweety. He comes
 4 back and says he's going to kill him. And the prosecutor says,
 5 you know, does he -- is he the kind of guy who just says that
 6 sort of thing without meaning it? The witness starts to answer
 7 and it would appear to be that when he's angry, he does tend to
 8 say things. The prosecution is cut -- the answer ends in the
 9 middle. The prosecution says: "Listen to what I'm asking you."
 10 There's an objection to him being cut off and then the witness
 11 says something that I will argue is totally different, "And when
 12 he says it, he means it."
 13 And it does, I think, clearly indicate -- the jury can
 14 infer from that, along with the other things that we're going to
 15 get into, a willingness to curry favor with the prosecutor. The
 16 prosecutor clearly wanted that statement that when Wah Luck says
 17 he's going to do something like that, he's going to do it.
 18 So that is the basis. I don't think it gets off into a
 19 whole debate on this. The issue with respect to the person --
 20 the people that are involved, Edgar Watson or Tweety, the
 21 evidence of his death notices were seized from Mr. Wilson's
 22 house, Mr. Ball's house as part of the -- it goes to the whole
 23 issue of this beef.
 24 But we're not going to use it for that. It simply has to
 25 do with this witness and the jury's assessment of this witness's

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1 credibility and his bias.
 2 THE COURT: All right. I think I understand your
 3 argument.
 4 Although the probative value of where you're going to show
 5 bias is not very high, it sounds as if the witness had already
 6 said, "Well, except for when he's mad, when he says what he says,
 7 he means what he says." The inference to be drawn that he has
 8 changed his testimony in the muddled context of that transcript
 9 is not a strong one.

10 In any event, it seems to me that any probative value that
 11 it may have to show bias is substantially outweighed by the risk
 12 of confusion of issues to the jury and under 403, I'm going to
 13 sustain the objection.

14 But thank you, Mr. Tabackman, for raising that in advance
 15 and saving the jury from having to cool its heels with the
 16 hushers on for a long time. I appreciate it.

17 MR. TABACKMAN: Thank you.

18 THE COURT: Are you ready for the jury, Mr. Tabackman?

19 MR. TABACKMAN: Yes, Your Honor.

20 THE COURT: Let's let the witness come in first. Do you
 21 want the witness first?

22 Fine.

23 (Jury in at 9:50 a.m.)

24 THE COURT: Good morning, ladies and gentlemen.

25 THE JURY PANEL: Good morning.

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1 THE COURT: Welcome back. It's good to have you back. I

2 hope you had a restful weekend. We're ready to resume.

3 Mr. Tabackman.

4 CONTINUED CROSS-EXAMINATION OF DAMIEN GREEN

5 BY MR. TABACKMAN:

6 Q. Good morning, Mr. Green. How are you?

7 A. Good morning.

8 MR. TABACKMAN: Good morning, ladies and gentlemen.

9 BY MR. TABACKMAN:

10 Q. You became -- I just wanted to make sure we have a
 11 context here. You became involved in drug activity when you
 12 were about eight years old; is that right?

13 A. About eight or nine.

14 Q. Eight or nine. And that was -- you were the lookout at
 15 first for Mr. Cunningham selling drugs?

16 A. Mr. Cunningham?

17 Q. Nardy?

18 A. Naw. I was mostly hanging with him then.

19 Q. Pardon me?

20 A. I was mostly hanging with him.

21 Q. Okay. Did you -- wasn't there a time when you were --
 22 when you first got started in drug activity where you used to go
 23 up to the top of 15th Place and you were the person who would
 24 take the lookout for the police, what direction they might be
 25 coming from, because you could see down Suitland Parkway and

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1 Stanton Road?

2 A. Yes.

3 Q. Okay. And that's what I meant by being a lookout, in
 4 effect, weren't you?

5 A. But it wasn't for him.

6 Q. Okay. Who was that for?

7 A. Jamie Freeman.

8 Q. I stand corrected. I apologize. That's correct. And
 9 the purpose of that was to make sure that they could get rid of
 10 the drugs or whatever else they might be holding before the
 11 police actually got to where they were; isn't that right?

12 MR. GUERRERO: Objection, speculation.

13 THE COURT: Sustained. You can rephrase.

14 BY MR. TABACKMAN:

15 Q. Your understanding of your role was to ensure that -- to
 16 let the Freemans know when the police were approaching; isn't
 17 that right?

18 A. Yes.

19 Q. And it's your understanding that the reason to do that
 20 was to enable people to get rid of whatever they were holding
 21 before the jump-outs actually arrived on the scene; isn't that
 22 right?

23 A. Yes.

24 Q. And the risk that the jump-outs would come is something
 25 that was faced every day; isn't that right?

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1 A. I'd say probably three times out of a week.

2 Q. My point is that you wouldn't know what three days it
 3 might be; is that right?

4 A. Naw.

5 Q. So you were out there as the warning signal, so to speak;
 6 isn't that right?

7 A. Yes.

8 Q. But the risk that the jump-outs might arrive on a day
 9 when, say, you weren't out there or weren't looking didn't stop
 10 you from getting involved in drug selling yourself shortly
 11 thereafter, did it?

12 A. You could say that.

13 Q. I could say that it didn't stop you?

14 A. No, it didn't.

15 Q. Right. And by 13, you were engaged in that activity on a
 16 regular basis; isn't that right?

17 A. Yes.

18 Q. And also around that time, you began using PCP on a
 19 regular basis; isn't that right?

20 A. Yeah.

21 Q. About how old were you when you started smoking PCP on a
 22 daily basis, would you say?

23 A. I'd say I was about 16.

24 Q. Okay. So that was around 1993?

25 A. Yeah.

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1 Q. Okay. And you would smoke on and off throughout the day?
 2 A. I'd smoke maybe a good ten every day.
 3 Q. I'm sorry. Smoke what?
 4 A. Ten.
 5 Q. Ten what?
 6 A. Ten blunts.
 7 Q. Okay. And would you start in the daytime or would that
 8 also be at night?
 9 A. Sometimes in the day, mostly at night.
 10 Q. And particularly when it was warm out, it would be at
 11 night; isn't that right?
 12 A. Yeah.
 13 Q. I believe you testified that when it was hot out and you
 14 smoked PCP during the day, it had just a really powerful effect;
 15 isn't that right?
 16 A. Right.
 17 Q. So that in the cooler weather, say around February in the
 18 year, you wouldn't have that problem?
 19 A. Naw.
 20 Q. The problem of the heat?
 21 A. Naw.
 22 Q. Okay. And could you describe the effect that PCP would
 23 have on you?
 24 A. It had you -- your body numb. It can have different
 25 effects. It can have you feeling hot, it can have you feeling

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1 cold, it can have you doing things like you strong or sometimes
 2 it make you can't see. Sometimes it make you just want to have
 3 fun, laugh. It has different effects.
 4 Q. But on some occasions, it would have the effect that -- I
 5 mean, you couldn't see anything and it would take several stages
 6 for you to come down to a point where you could -- your
 7 perception was regular again; isn't that right?
 8 A. Yeah, about three or four.
 9 Q. About three or four stages?
 10 A. Yeah.
 11 Q. And so in other words, if you would be getting real high
 12 off PCP and then you'd stop and you'd reach one of those stages
 13 where you really couldn't see -- know what was going on around
 14 you, how long could it take you to get back to a point where you
 15 did know?
 16 A. So you're saying -- what you're trying to say, if I smoke
 17 PCP and I stop smoking PCP, that I still be messed up from it;
 18 is that what you're saying?
 19 Q. No. I'm asking you a question. Say if you smoke PCP
 20 throughout a day --
 21 A. Right.
 22 Q. -- and you got to a point -- you would sometimes get to a
 23 point where you couldn't really even tell what was going on
 24 around you; isn't that right?
 25 A. I mean you could tell. It's just that you high.

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1 Q. Right.
 2 A. You could tell what's going on around you. It's just
 3 that you're in a stage that nobody else is in the same stage as
 4 you.
 5 Q. And what would that -- can you describe the physical
 6 consequences of that feeling?
 7 A. Well, I can't really explain the whole -- I don't know.
 8 I guess you have to smoke it and see.
 9 MR. TABACKMAN: One second, Your Honor. Court's
 10 indulgence.
 11 BY MR. TABACKMAN:
 12 Q. Would it be accurate to say that sometimes it felt like
 13 it put you in another world?
 14 A. Yeah, it put you in another world.
 15 Q. And was there something called Shermans that you used to
 16 smoke?
 17 A. Yes.
 18 Q. Is that a form of smoking PCP?
 19 A. Yes.
 20 Q. What is a Sherman?
 21 A. A Sherman is you dip a cigarette in the PCP water.
 22 Q. Just a regular cigarette?
 23 A. Cigarette, right.
 24 Q. And you used to smoke PCP that way?
 25 A. Sometimes.

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1 Q. Okay. And sometimes would you mix the PCP with crack?
 2 A. Naw.
 3 Q. Was that another way to smoke it, though?
 4 A. You got some people that smoke it that way.
 5 Q. Does that have a name also?
 6 A. Yeah.
 7 Q. What was that called?
 8 A. Woodies.
 9 Q. "Woody"?
 10 A. "Woodies."
 11 Q. But you didn't smoke those?
 12 A. No.
 13 Q. And you also would be drinking a lot when you were a
 14 teenager; isn't that right?
 15 A. Yes.
 16 Q. And when did that begin?
 17 A. I started drinking beer probably in 1990.
 18 Q. And when you drink beer, would you drink beer every day
 19 all day?
 20 A. Naw, not 1990. Maybe from 1993 on up, I drink beer every
 21 day.
 22 Q. Throughout the day?
 23 A. Throughout the day.
 24 Q. And in fact, you testified, do you recall, in the Edelin
 25 trial that you said you loved the liquor store?

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1 A. Yeah.
 2 Q. And so you -- and you would drink beer during the day,
 3 you would drink liquor at night; isn't that correct?
 4 A. Correct.
 5 Q. You would drink Remy?
 6 A. Yes.
 7 Q. Or Hennessy?
 8 A. Yes.
 9 Q. What's Remol?
 10 A. Say that again.
 11 Q. Is there another drink you used to have, R-E-M-O-L?
 12 A. I don't know.
 13 Q. It could be a typing error there.
 14 And when you referred to drinking, did you drink white
 15 liquor?
 16 A. Naw, not too much. I drunk it before.
 17 Q. When you refer to "white liquor," what are you talking
 18 about?
 19 A. Vodka, gin.
 20 Q. And would you drink brown liquor?
 21 A. Yes.
 22 Q. And when you talk about that, what are you referring to?
 23 A. Remy, Hennessy, E & J.
 24 Q. And you would do that with your friends; isn't that
 25 right?

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1 A. Yes.
 2 Q. And that would include Mr. Faison?
 3 A. Yes.
 4 Q. Mr. Carter?
 5 A. Yes.
 6 Q. Mr. Willis?
 7 A. Yes.
 8 Q. And again, that would be on a daily basis; is that right?
 9 A. Yeah, when we got money.
 10 Q. And you'd be out there selling most days; isn't that
 11 right?
 12 A. Yes.
 13 Q. And one of you would always pretty much have the ability
 14 to go to the liquor store and get something to drink at night;
 15 isn't that right?
 16 A. Yes.
 17 Q. And in addition, you would smoke marijuana?
 18 A. I ain't smoke marijuana too much.
 19 Q. But that was also one of the things that was there when
 20 you guys in the evenings were playing video games or watching
 21 television or whatever you were doing?
 22 A. Well, some of the guys that hung around, they smoked
 23 marijuana a lot, but I didn't smoke it all the time.
 24 Q. So it was mostly PCP and drinking in the evenings?
 25 A. Yeah.

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1 Q. And it's fair to say that you would be pretty high at the
 2 end of most evenings; isn't that right?
 3 A. Not all the time. Sometimes the high go away. Sometimes
 4 when you drink -- when you drink and smoke PCP, it don't mix,
 5 because you can smoke PCP and drink liquor and you ain't going
 6 to feel the liquor until the PCP high is gone. So once the PCP
 7 high is gone, then you can feel the liquor.
 8 Q. So what you're saying, if I understand you correctly, is
 9 that sometimes the high from the PCP was so powerful that the
 10 liquor didn't have any -- you didn't feel the effect of the
 11 liquor?
 12 A. Correct.
 13 Q. But when the PCP then would be wearing off, then the
 14 liquor -- you could feel the liquor more?
 15 A. Yes.
 16 Q. Okay. Now, from your observations, was this also the
 17 sort of thing that Brad Carter would engage in with you?
 18 A. Yes.
 19 Q. On a daily basis?
 20 A. You know, when we together, yeah.
 21 Q. And you were together on the night of February 20th of
 22 1994?
 23 A. I don't know what date that was.
 24 Q. Well, that's the night that he reported that he was shot
 25 at.

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1 A. With who?
 2 Q. In his car.
 3 A. With who?
 4 Q. Pardon me?
 5 A. With who?
 6 Q. No, I'm asking you, was Mr. Carter with you on that
 7 night? Do you recall testifying about that night?
 8 A. I'm trying to figure out who he was with. You said he
 9 was shot at, right?
 10 Q. Right. But before he was shot at, when he was shot at
 11 with Mr. Willis, Black --
 12 A. Oh, okay.
 13 Q. -- he had been with you that evening; is that right?
 14 A. He wasn't with me.
 15 Q. You had been together at Monkey Mark's house?
 16 A. No, he wasn't at Monkey Mark's house with me. He wasn't
 17 there with me.
 18 Q. Oh, he wasn't there before you left?
 19 A. No.
 20 Q. He lived next door to Monkey Mark?
 21 A. Yes.
 22 Q. Okay. So the first time you saw him that evening was
 23 when?
 24 A. He was going to Black in them car. They was going to the
 25 liquor store. I gave them some money to bring me some beer

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1 back. That was it.
 2 **Q.** Okay. But you had been in Monkey Mark's for a while that
 3 evening?
 4 **A.** Probably, mostly the whole day.
 5 **Q.** Right. Hanging out?
 6 **A.** Outside, inside, outside, inside.
 7 **Q.** Smoking some PCP?
 8 **A.** Naw. I don't smoke PCP around his mother or around his
 9 house.
 10 **Q.** You didn't smoke PCP around Monkey Mark's house?
 11 **A.** Not around his mother. If his mother -- naw, I'll go
 12 somewhere else and smoke it.
 13 **Q.** Where did you go to smoke it that day?
 14 **A.** I didn't smoke it that day. I don't remember I was high
 15 that day.
 16 **Q.** That day was different than other days?
 17 **A.** I mean, it was some days that I smoked it, some days I
 18 didn't, but I don't remember me smoking it that night.
 19 **Q.** You testified both here and before that you smoked PCP
 20 every day?
 21 **A.** Show me in the paper. Show me on there that I was high
 22 that night when they -- I said I was high that night off PCP.
 23 **Q.** You never testified about this event before, have you?
 24 **A.** Okay. Well, I'm telling you, I wasn't high.
 25 **Q.** And what I'm asking you, sir, is do you specifically

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1 recall that night was a night that you weren't high on PCP?
 2 **A.** Yeah.
 3 **Q.** And you hadn't been drinking that night either?
 4 **A.** I probably was drinking. I probably had some beer during
 5 that day. I was still drinking beer. I didn't even get the
 6 liquor yet, remember?
 7 **Q.** Now, when was the first time that you were asked about
 8 February 20th, 1994 by any prosecutors or anybody else?
 9 **A.** I can't even remember.
 10 **Q.** Well, were you asked about it by Mr. Phleger when he was
 11 preparing for the Edelin trial.
 12 **A.** I talked to Mr. Phleger about it, Michael Rokaw. I
 13 talked to a lot of them about it.
 14 **Q.** You talked to Mr. Phleger and Mr. Rokaw about Bradley
 15 Carter?
 16 **A.** Oh, Bradley Carter, about that incident, yeah.
 17 **Q.** And when do you recall speaking with him about that, sir?
 18 **A.** I can't give you no date.
 19 **Q.** And what is your recollection of them asking you about
 20 that?
 21 MR. GUERRERO: Objection, Your Honor. Calls for hearsay.
 22 THE COURT: Overruled.
 23 BY MR. TABACKMAN:
 24 **Q.** What is your recollection about them asking you about
 25 that?

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1 **A.** Basically, I told them what happened.
 2 **Q.** You mean you just volunteered it?
 3 **A.** No, I didn't volunteer. I mean --
 4 **Q.** Let me ask you --
 5 **A.** -- when I came back from Ohio and I talked to Steve
 6 Phleger and them, I was in Virginia --
 7 **Q.** I'm sorry?
 8 **A.** I was in Arlington, Virginia when they brought me back
 9 from Ohio. My cousin got them to call me back. He got them --
 10 he got them to come, you know, talk to me. After we got
 11 comfortable talking to each other, they called me here and we
 12 talked and that's when I told them everything that I know.
 13 **Q.** And when they were talking -- that was before you ever
 14 testified in the Edelin trial; isn't that right?
 15 **A.** Yes.
 16 **Q.** And the prosecution in that case was about the One-Five
 17 mob; isn't that right?
 18 **A.** Yes.
 19 **Q.** And it wasn't about the gentlemen that are here; isn't
 20 that right?
 21 **A.** See, you have to understand, it was about the One-Five
 22 mob, but at the same time, all that stuff happened because it
 23 was either Stanton Terrace or them. That's why they are here
 24 now. They are here because they didn't --
 25 **Q.** Excuse me. That is nonresponsive, sir.

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1 MR. GUERRERO: Objection, Your Honor. The witness hadn't
 2 finished his answer.
 3 THE COURT: Overruled.
 4 BY MR. TABACKMAN:
 5 **Q.** My question is: That trial focused on people other than
 6 the people that are not -- that are not at this table; isn't
 7 that right?
 8 **A.** You right.
 9 **Q.** And it's a fact that the only mention of Antwuan Ball,
 10 for example, in your entire testimony came after four days when
 11 somebody asked you if you knew the Ball family; isn't that
 12 right?
 13 **A.** Say that again.
 14 **Q.** That the only reference to Antwuan Ball in your four days
 15 of testimony came almost at the end when one of the lawyers
 16 happened to ask you if you were aware of the Ball family?
 17 MR. GUERRERO: Objection, form.
 18 THE COURT: Form?
 19 MR. GUERRERO: Compound, form.
 20 THE COURT: Beg your pardon?
 21 MR. GUERRERO: Yes. Compound, form.
 22 THE COURT: Overruled.
 23 THE WITNESS: I don't understand that.
 24 BY MR. TABACKMAN:
 25 **Q.** You were not asked by the prosecution in the Edelin trial

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1 to testify about the activities of the men that are at this
2 table; isn't that correct?
3 **A.** Because he wasn't in trial then.
4 **Q.** My question, sir, you did not testify about the
5 activities of any of these men --
6 **A.** Right.
7 **Q.** -- at that trial, correct?
8 **A.** But I made a statement about every incident that happened
9 before the trial started in Edelin's case, so it's on paper.
10 **Q.** So that if there is a reference to -- and you recall them
11 writing down the discussion with you about Bradley Carter
12 getting shot at?
13 **A.** Yes. I know they was talking about it. If they wasn't
14 talking about it, they wouldn't keep asking the questions on it
15 every time I went and talked to them about it.
16 **Q.** Every time that you talked to --
17 **A.** Most of the time I talked to Steve Phleger, he talked to
18 me about that incident or he talked to me about other incidents.
19 **Q.** I'm talking about that incident, sir.
20 **A.** I'm just telling you about that one and other ones.
21 **Q.** Well, I'm talking to you. You recall -- you have a
22 specific recollection of Mr. Phleger asking you about the
23 Bradley -- the incident where Bradley Carter allegedly was shot
24 while he was in a car with Pooh and Willis --
25 **A.** Right.

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1 **Q.** -- is that correct?
2 **A.** Right.
3 **Q.** Mr. Phleger did?
4 **A.** Right.
5 **Q.** And you admit -- you acknowledge that didn't come up in
6 the trial?
7 **MR. GUERRERO:** Objection, asked and answered.
8 **THE COURT:** Sustained.
9 **THE WITNESS:** Naw, it didn't come up in the trial, but --
10 **THE COURT:** That means you don't have to answer.
11 **THE WITNESS:** Okay.
12 **BY MR. TABACKMAN:**
13 **Q.** And you said also that Mr. Rokaw asked you about that?
14 **A.** Naw, he didn't ask me about it, but it was -- it came a
15 time that we was sitting talking about the incident, but we
16 never really got all the way into it. It was in and out.
17 **Q.** What does "in and out" mean?
18 **A.** That means we talked about it for a second and then we
19 went to something else.
20 **Q.** And was your conversation with Mr. Phleger that you
21 talked for a second and then went on to something else?
22 **A.** Naw.
23 **Q.** Mr. Phleger, you talked in detail?
24 **A.** Yes.
25 **Q.** And you told him about how you were at Monkey Mark's that

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1 evening?
2 **A.** I told him about that incident. I told him about the
3 Reesey murder. I told him about all other murders.
4 **Q.** What I'm asking you, sir, is did you tell him in detail
5 your recollection of the night of February 20th, 1994?
6 **A.** Yes.
7 **Q.** And you were asked -- and you told him about your
8 recollection of how Brad Carter was when he came back to Monkey
9 Mark's house?
10 **A.** Yes, I told him -- I told him how Brad came to the window
11 and told us that Black got shot in the head. I told him all
12 that.
13 **Q.** And did he ask you to describe in detail how Mr. Carter
14 seemed at that point?
15 **A.** He probably did. I don't remember. I don't remember if
16 he asked me that, but I know we talked about that case.
17 **Q.** I'm talking about the specific point in time when
18 Mr. Carter came back to Monkey Mark's house.
19 **A.** Yes.
20 **Q.** Isn't it a fact, sir, that the first time you were asked
21 about that and what Mr. Carter said is when you spoke to Mr.
22 Guerrero? Isn't that the first time you talked about that
23 particular aspect of it?
24 **A.** Naw.
25 **Q.** And isn't it a fact, sir, that it was only recently that

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1 you were asked to describe how Mr. Carter appeared to you at
2 that time? Not what he said, but how he appeared to you.
3 **A.** I talked to Phleger about it. But even if I didn't talk
4 to Phleger about it, you asked me how he was and I told you how
5 he was.
6 **Q.** I'm asking a question, sir. Mr. Guerrero asked you on
7 direct examination -- I'm asking you, wasn't your conversation
8 with Mr. Guerrero the first time that you were asked to describe
9 and to focus on how Mr. Carter appeared when he came back to
10 Monkey Mark's house that night?
11 **A.** No, it wasn't the first time.
12 **Q.** It wasn't?
13 **A.** Steve Phleger asked me how he was. He asked me how he
14 was. The same thing he asked me, Steve Phleger asked me the
15 same thing. It wasn't no different.
16 **MR. TABACKMAN:** Your Honor, may we approach?
17 **THE COURT:** Yes.
18 (Following sidebar discussion had on the record:)
19 **MR. TABACKMAN:** I would request that the government be
20 directed to produce any recordation of this witness's having told
21 Mr. Phleger details about how Brad Carter appeared on that
22 evening or anything else that he spoke to Mr. Phleger about. He
23 said Mr. Phleger wrote it down. We haven't been given anything
24 like that.
25 It is our good faith belief that the issue of excited

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1 utterance came once -- it focused on when Mr. Carter spun them,
2 perhaps, arguably, in the government's view at least, on the
3 issue of his recollection. And I think it's a significant point
4 because he said he spoke with Mr. Phleger about it; we don't
5 believe that he did, but if there's *Jencks* material about it, we
6 think we're entitled to it.

7 MR. GUERRERO: Your Honor, I don't think the record shows
8 that there is any *Jencks* material for that particular event that
9 may or may not have happened as the witness testified. When he
10 was asked several times -- Mr. Tabackman -- did you talk to Mr.
11 Phleger about the details of how Carter appeared when he appeared
12 at Monkey Mark's house, Damien Green said on the record, "I may
13 have, I may not have. I'm not sure. I probably did, I probably
14 didn't." Those are my notes.

15 And even if he did or did not do that with Assistant U.S.
16 Attorney Steve Phleger, it wouldn't be *Jencks* as to this witness.
17 And we don't even know if there was a verbatim documentation of
18 that particular interview. So I think the record is far from
19 establishing that there's some *Jencks* out there that the defense
20 is entitled to.

21 I think that this witness made it very clear in his
22 cross-examination that he had -- this is not something that's
23 new. Maybe it wasn't flushed out as much as it was for this
24 trial, but we don't have any reason to believe that there's
25 *Jencks* out there that has not already been disclosed.

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1 testimony.

2 MR. TABACKMAN: And I would ask that Mr. Guerrero report
3 at least, if there are any notes, whether or not there are, in
4 his view, that the government qualifies as *Jencks* because we
5 believe, and there's case law that in some instances, the Court
6 ought to take a look at them to make its own determination as to
7 whether or not -- and we're not simply at the government's mercy
8 on these things as to whether it's verbatim and what's there.

9 I don't think that there's anything, but I've made that
10 point, and I would simply ask that if there are notes or any
11 recordation whatsoever on those, that we be notified of those so
12 we can make a request that this be examined by the Court.

13 THE COURT: You said you don't think there's anything?

14 MR. TABACKMAN: No. I said -- I think that they have
15 not -- that the issue and the detail of this discussion did not
16 occur until recently. That's our theory, that the other day, Mr.
17 Guerrero, you know, raised the issue of excited utterance. I
18 think that came up --

19 THE COURT: You don't think there's any *Jencks*? If that's
20 your theory, you don't think there's any *Jencks*.

21 In any event, I've asked the government to exercise due
22 diligence in determining what, if any, *Jencks* materials exist
23 with respect to this witness's direct testimony concerning the
24 Carter incident and let us know.

25 MR. GUERRERO: Yes.

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1 THE COURT: Well, the question is: Is there *Jencks*? And
2 did you all look for any on this issue?

3 MR. GUERRERO: We have.

4 THE COURT: Regardless of whatever the record may show,
5 I'm not going to direct you to produce something that doesn't
6 exist. But I want you to make some representation about whether
7 any *Jencks* does exist with respect to this witness's comments
8 about Mr. Carter's condition or what Carter said, be it to Mr.
9 Phleger or anybody else.

10 MR. GUERRERO: We have searched for that. We haven't
11 found anything on point. We'll continue to search and make those
12 inquiries so that we can comply with any *Jencks* disclosure that
13 we need to, but as of this point, we haven't come across any
14 material that Mr. Tabackman is inquiring about or perhaps
15 suggesting that it even exists.

16 THE COURT: Well, I --

17 MR. TABACKMAN: I'm sorry.

18 THE COURT: I'll ask that you make sure that when you're
19 determining whether any *Jencks* exists, at minimum you contact Mr.
20 Phleger. Has he left the office?

21 MR. GUERRERO: He has transferred to a different office.

22 THE COURT: Well, check whatever files remain of his and
23 see if you can contact him and any agents that might have been
24 present to see if they took any documents that might qualify as
25 *Jencks* in connection with this discussion and his direct

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1 (Sidebar discussion concluded.)

2 BY MR. TABACKMAN:

3 Q. When Mr. Carter came back to the house that night, he was
4 out of breath, right?

5 A. Yes.

6 Q. And he was sweating a little?

7 A. Yes.

8 Q. And he had been running from Greater Southeast Hospital,
9 as you understood it, back to Monkey Mark's house; is that
10 right?

11 A. Yes.

12 Q. And you know that's about -- maybe a little over a mile
13 and a half away; isn't that right?

14 A. Yeah, you could say that.

15 Q. So it wouldn't surprise you that he'd be out of breath
16 from that kind of a run?

17 A. No.

18 Q. Did he stutter at all when he spoke with you?

19 A. I don't remember him stuttering. I know he was tired, he
20 was sweating, he was shaking a little bit. You know, you could
21 tell that he was into something. His hand was shaking because a
22 bullet was in his hand.

23 Q. Right. A bullet was in his hand and his hand was
24 shaking. But the question is, he wasn't like -- his eyes
25 weren't all wild, were they?

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1 A. I mean, he was hyped. He was --
 2 Q. He had been running a mile and a half?
 3 A. Basically, he was running, plus those gunshots woke him
 4 up.
 5 Q. Right. But you didn't have any trouble understanding
 6 what he was saying to you; is that right?
 7 A. Naw.
 8 Q. And he wasn't like he couldn't complete a sentence, he
 9 was so excited; is that right?
 10 A. I mean, once he came to the window and said that Black
 11 got shot in the head and I ran outside and started talking to
 12 him, once he told me everything that happened, I mean after
 13 that, that was it. He didn't have to explain nothing else.
 14 Q. And he seemed pretty calm by that point?
 15 A. Naw, he wasn't calm. He was more scared and hyped
 16 because, for one, he just got shot in the hand. He don't want
 17 to go to the hospital, for one, because he on the run. He ain't
 18 trying to go to jail. So basically, his mind is just -- his
 19 mind going in circles. He don't know what to do.
 20 Q. Right. Because -- and what was he on the run from?
 21 A. I don't know. I don't remember.
 22 Q. But he was talking about that too, wasn't he?
 23 A. No. I don't remember him saying nothing about he was on
 24 the run. I knew he was on the run. He was on the run for a
 25 while, but I don't know what it was for, though.

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1 Q. Didn't you testify that he said, "I ain't going back to
 2 jail"?
 3 A. I don't remember if I said that.
 4 Q. I'll move on to something different.
 5 When -- you recall Mr. Guerrero asking you last week
 6 about the issue of perjury in this trial? Do you recall he was
 7 asking you some questions about that?
 8 A. Yes.
 9 Q. And he asked you if you understood what that meant?
 10 A. Yes.
 11 Q. And you said that you understood that if you lied in this
 12 case, you could subject yourself to perjury?
 13 A. Yes.
 14 Q. And --
 15 MR. GUERRERO: Objection, Your Honor. May we approach?
 16 May we approach?
 17 THE COURT: Yes.
 18 (Following sidebar discussion had on the record:)
 19 MR. GUERRERO: Your Honor, I don't have a technical
 20 objection to Mr. Tabackman, but I want to alert to the Court that
 21 it appears that one of the jurors, Juror Number 14, is struggling
 22 with some type of physical ailment and I wasn't sure if I should
 23 bring it to the Court's attention, but it does appear she's
 24 struggling with something.
 25 THE COURT: All right. Thank you.

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1 (Sidebar discussion concluded.)
 2 THE COURT: Would you like a break?
 3 JUROR NO. 14: Please.
 4 THE COURT: Ladies and gentlemen, why don't we go ahead
 5 and take a recess for the moment. We'll take 15 minutes.
 6 Juror 14, will 15 minutes be good enough?
 7 Let's excuse the witness and then we'll have the jurors
 8 take a break.
 9 Would you like to see the nurse?
 10 JUROR NO. 14: Yes.
 11 THE COURT: Okay. Go ahead.
 12 (Jury out at 10:24 a.m.)
 13 THE COURT: All right. We'll be at ease. Please don't go
 14 far and we'll come back as soon as we're able to reassemble.
 15 MR. ZUCKER: Judge, are we in a 15-minute recess?
 16 THE COURT: We can call it that, but I want the juror to
 17 have full access to the nurse, which might mean it might extend
 18 beyond that. But as soon as she's back, I want to get started.
 19 MR. ZUCKER: We can be held harmless for 15 minutes?
 20 MR. BEANE: Your Honor, I have one issue at the bench I
 21 would like to discuss. It will take one minute.
 22 (Following sidebar discussion had on the record:)
 23 MR. BEANE: It does not have to be under seal.
 24 Nobody at the table knows -- remembers what the order of
 25 cross is and I need to change -- I need to go further down the

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1 list, if I could take it back.
 2 THE COURT: Bring it back.
 3 (Discussion had off the record.)
 4 MR. BEANE: Thank you. Sorry for the confusion.
 5 (Thereupon, a break was had from 10:26 a.m. until 10:55
 6 a.m.)
 7 (Discussion had off the record.)
 8 MR. BEANE: Judge, do we want to bring the jurors in?
 9 THE COURT: No, we don't need them. Actually, you know
 10 what, I guess they should be here. Yes, bring them in.
 11 MR. ZUCKER: Judge, I have a quick ex parte matter once
 12 we're done.
 13 THE COURT: All right.
 14 (Jury in at 11:04 a.m.)
 15 THE COURT: Good morning, ladies and gentlemen.
 16 THE JURY PANEL: Good morning.
 17 THE COURT: As you may know, we're going to let juror 14
 18 go to the doctor and let the doctor check her out and make sure
 19 everything is okay. It's fairly clear that that will take
 20 probably the rest of the day and that we will not be able to
 21 proceed today. What I want to do is release you now with two
 22 instructions. One, if you go back through your normal route to
 23 the jury lounge, the jury lounge will give you a phone number.
 24 That's a number you can call close to the end of the day to find
 25 out whether you'll be coming back first thing in the morning or

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 Plaintiff, : Docket No. CR 05-100
 v. :
 :
 ANTUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : June 5, 2007
 DOMINIC SAMUELS, : 9:20 a.m.
 Defendants. :
 :
 :

VOLUME 61 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

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Proceedings reported by machine shorthand, transcript produced
 by computer-aided transcription.

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1 MORNING SESSION, JUNE 5, 2007

2 (9:20 a.m.)

3 THE COURT: Counsel, we are still waiting apparently for
 4 one juror. I thought they were all here. That's my mistake.

5 I understand that there has been a continuing problem with
 6 delay in the delivery of clothing for the defendants. The
 7 marshals have reported that at least for the last several weeks
 8 on a consistent basis the clothing has not been completely
 9 delivered until beyond 8:30. The arrangement has been to -- or
 10 the directive has been to have the clothing here by 8:00. Can
 11 anyone tell me what the problem is?

12 MR. PROCTOR: Your Honor, the person that deals with the
 13 clothing issues works with Mr. Zucker and I'm sure Mr. Zucker
 14 knows he's just in the lawyer's lounge. Could you maybe address
 15 this at the next break or when Mr. Zucker gets here?

16 THE COURT: Could someone get him, please. No one else
 17 knows.

18 MR. BEANE: This is the first I heard of this on behalf of
 19 Mr. Bell.

20 MR. MARTIN: The procedure, Your Honor, is that we go down
 21 in the evening, we pick up the clothes that they've worn for the
 22 day, we bring them upstairs to the war room, wherever that may
 23 be. And then in the morning, it's taken back downstairs.

24 If the intern -- if Shane is late, I'm usually the first
 25 here or Mr. Carney and we will sometimes take it down there.

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1 When he was in school, he would sometimes be late on Tuesdays so
2 I would always try to get here early on Tuesdays, but he's not in
3 school now so I don't know -- I can't say what the problem is. I
4 don't know.

5 MS. WICKS: Your Honor, the person that deals with the
6 clothes is in the process of moving us from the old room to the
7 new room, but he indicated to me that he had actually never been
8 told 8:00. So he's -- if it's 8:00, he can bring them by 8:00.
9 That's not a problem. But he had not been told that they needed
10 to be down there by 8:00.

11 The other issue is if there are problems with the
12 clothing, he's not told until the defendants are up here, and so
13 his suggestion is he can wait downstairs and if there are
14 problems, if they let them know downstairs, there's more time if
15 there's any clothing issues to get it dealt with before 9:15.

16 THE COURT: The complaint I heard about has not to do with
17 whether the defendants are dissatisfied with what they've
18 received. It's that the marshals have not been getting the
19 clothes by 8:00. The marshals need the clothes by 8:00.

20 MS. WICKS: Right. And if that had ever been communicated
21 to him, they would have been here by 8:00. I told him 8:00 and
22 they will be here by 8:00, but he was never told 8:00.

23 THE COURT: Well, that is certainly not the marshals'
24 fault. If it's anybody's faults, it's defense counsels' fault,
25 so let's not try to shift blame to anyone else.

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1 MS. WICKS: I'm not trying to shift blame. I'm saying if
2 anyone had been told about this prior to today, it would have
3 changed. It will change now.

4 THE COURT: "If anybody had been told about this prior to
5 today?" What is the problem about being told the clothes are due
6 at 8:00 in the morning? When we first started the trial, I made
7 it very plain that you must follow the marshals' directive to get
8 the clothes there on time. The marshals have told me that 8:00
9 was the starting time from the beginning, so I'm not sure what
10 this issue is about "if anybody had ever told him about it."

11 MS. WICKS: Your Honor, I was not part of the arrangement
12 for having him do the clothing. My point is he -- if he had ever
13 been told by the marshals since February that the clothes needed
14 to be there 8:00, he would have had them there at 8:00.

15 THE COURT: Fine. It is not the marshals' responsibility
16 to have told him. It was defense counsels' responsibility to
17 have told him, so it is defense counsels' problem. I've told
18 defense counsel from the beginning, you must confer with the
19 marshals and follow their rule and their rule is to get the
20 clothes at 8:00 and have it there.

21 MS. WICKS: And I'm letting the Court now that I have
22 communicated that to him and they will be there at 8:00.

23 THE COURT: Anything else?

24 MR. ZUCKER: I came in on the second half. I will say I
25 was the person that helped coordinate it and I was never told

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1 8:00. And I can't recall if we were told 8:15 or 8:30
2 originally, but we were told different times.

3 THE COURT: Did anybody go and ask the marshals what time?

4 MR. ZUCKER: Yes.

5 THE COURT: And you're telling me the marshals never said
6 get them here by 8:00?

7 MR. ZUCKER: Yes, I'm telling you that.

8 THE COURT: I find that very difficult to believe because
9 the marshals have made plain from the beginning that they have a
10 deadline by which the clothing must be delivered, that they rely
11 upon that deadline and I've communicated to counsel in the
12 beginning of this trial that that is what is to be followed.

13 MR. ZUCKER: I'm not disagreeing with you except that the
14 time was different.

15 THE COURT: What was the time you were told by the
16 marshal?

17 MR. ZUCKER: I think I was told 8:15. It might have been
18 8:30.

19 THE COURT: The fact remains that the marshals have
20 reported that the clothing has consistently for the last few
21 weeks not been delivered even by 8:30.

22 MR. ZUCKER: Well, we'll address it, but they never -- no
23 one ever said anything to me or any other defense counsel, as far
24 as I know. And now that you've raised it, we'll address it.

25 THE COURT: About?

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1 MR. ZUCKER: About getting --

2 THE COURT: Getting the clothing there by the deadline?

3 MR. ZUCKER: That it had been a problem, that it was late.

4 And the deadline that I was told in the beginning, I can't recall
5 with a hundred percent certainty, but I think was an hour before
6 it had to be up here.

7 THE COURT: The marshals have been kind about not
8 complaining about it, but let's not make it sound as if nobody
9 ever told the marshals -- nobody ever found out from the marshals
10 that there was a deadline and that the deadline had to be met.

11 MR. ZUCKER: I'm not quarreling with you on that, Judge.
12 I'm just saying that the deadline we were operating under was
13 different. And now that it's clarified they want them there at
14 8:00, we'll deal with it.

15 THE COURT: Anything else?

16 MR. TABACKMAN: There's a preliminary matter having to do
17 with this witness that I wanted to raise regarding some Jencks
18 material that we just received. I was waiting for Your Honor to
19 finish reading.

20 And I was late this morning and I am sorry and I'll tell
21 the Court why if the Court wishes to know at the bench ex parte.
22 It's a personal reason, but I will be glad -- I apologize for
23 that.

24 I came in, I had this. The Court was reading something
25 over the last few minutes and I didn't want to interrupt while

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1 you were looking down at your piece of paper.
2 THE COURT: Do you need to have this resolved before the
3 examination is continued?

4 MR. TABACKMAN: Yes, Your Honor.

5 THE COURT: Okay. Approach.

6 (Following sidebar discussion had on the record:)

7 THE COURT: If you could do it quickly and succinctly, I
8 would appreciate it because the jury is about to come in.

9 MR. TABACKMAN: Okay. This morning, pursuant to the
10 request that we made for Jencks material or any statement, we
11 received a portion of a 302 which the witness apparently had on
12 April the 6th of last year -- April 19th of last year, made a
13 statement regarding what Mr. Carter had told him on that evening.

14 THE COURT: Can I invite you to have a seat there beside
15 the marshal.

16 MR. TABACKMAN: It's different in several material
17 respects from the testimony that had been given.

18 THE COURT: Okay. Bottom line, what is your request?

19 MR. TABACKMAN: I'm requesting, Your Honor, that we
20 receive the entire 302 of the interview where this has been
21 disclosed, in part because the portion that is relevant to the
22 issue of what Mr. Carter said is on the same page as another
23 piece of 302 that we got, although, while they both purport to be
24 page 3 of the same 302, this paragraph, the one in my left hand
25 that bears mark 10-6-95 has an FBI index number on it. This

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1 document, which also purports to be page 3 of the same 302 --
2 it's dated the same date -- doesn't have those markings.

3 I don't see how the government could have missed the
4 paragraph regarding Mr. Carter, having already given us this
5 other paragraph. It's curious that these pages, while they're
6 both marked "3," have different markings on them. And we think
7 we should be entitled to the entirety of Mr. Green's most recent
8 interview.

9 MR. GUERRERO: Your Honor, we've released the portions
10 that are disclosable under Rule 16. They're not entitled to the
11 entire 302. We've gone back and double-checked, as the Court
12 instructed, for the specific area that Mr. Tabackman was looking
13 for, which was a statement by this witness, Damien Green, to law
14 enforcement about the conversation that Damien Green had with
15 Bradley Carter after the shooting by Antwan Ball.

16 We found that. We disagree. We don't think it's
17 materially different in any respect. And now they're equipped
18 with the information that they want to impeach if they so choose
19 on cross-examination, but there's nothing else that we could find
20 that was material to the inquiry that Mr. Tabackman wanted.

21 THE COURT: Question one: Are these two excerpts from the
22 same 302 or a different 302?

23 MR. GUERRERO: They're from the same 302.

24 THE COURT: Can you explain why it appears there's an
25 index number at the top on the one that was provided earlier and

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1 none such on the one provided yesterday, or the vice versa?

2 MR. GUERRERO: Just a photocopying error. I don't know
3 why when it was originally copied for disclosure, the first
4 disclosure of the 302, which went out last Friday of last week,
5 June 1st, it just happened that they didn't copy the actual FBI
6 serial report number on it. But when I made the copy this
7 morning after double-checking everything, I made sure to include
8 it in there. It's the same report, just different paragraphs.

9 MR. TABACKMAN: I hear Mr. Guerrero's point. Mr. Guerrero
10 also says that the first one which was released on June 1st and
11 at that point, Mr. Green had already testified regarding the
12 Carter -- his conversation with Mr. Carter. If indeed this
13 paragraph now on the one with Mr. Carter is on the same piece of
14 paper as this one, why it was redacted is of great curiosity.
15 And we think it bears the Court's examination.

16 THE COURT: Do you have it?

17 MR. GUERRERO: I do have the original.

18 THE COURT: Let me see it. How many pages?

19 MR. GUERRERO: Three pages.

20 THE COURT: You can have a seat.

21 (Brief pause).

22 THE COURT: Counsel, come back up, please.

23 I know that the request yesterday had been to determine
24 whether there were any other statements that had been made and
25 recorded concerning the Bradley Carter comments concerning the

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1 shooting of Black. However, I'm also seeing --

2 I'm sorry. This is page --

3 MR. TABACKMAN: Both of these purport to be page 3. The
4 one with highlighting, Your Honor, had previously been given to
5 us. It doesn't have anything -- the one with the highlighting
6 had previously been provided.

7 THE COURT: Well, as I recall this witness's testimony
8 from, I think, last week --

9 MR. GUERRERO: Thursday, May 31st, yes.

10 THE COURT: -- the second and perhaps the third of the
11 series of incidents -- well, let's put it this way: The second
12 in the series of events following the testimony about the
13 shooting of Black, as I recall it, involved a 19- --
14 apparently -- '96 incident where this witness was on Congress
15 with Squid and possibly JJ; they heard about -- or he heard about
16 20 shots and he eventually saw Tweety running from one cut to the
17 other cut with a gun. And then he saw Cool Wop run up through an
18 alley with a gun.

19 Did I remember that correctly?

20 MR. GUERRERO: Yes, sir.

21 MR. TABACKMAN: Yes.

22 THE COURT: Is there not something in the 302, Mr.
23 Guerrero, that you've handed me concerning that that is not a
24 part of the two excerpts that Mr. Tabackman has handed me?

25 MR. GUERRERO: That's correct, Your Honor. I don't see it

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1 in there. We can --

2 THE COURT: I think I see it in here and you need to
3 disclose it.

4 Let me finish reading because I stopped right at that one
5 and it looks as if that was not appearing in the excerpts that
6 Mr. Tabackman showed me, so I think that was overlooked.

7 But let me continue to see if, in response to Mr.
8 Tabackman's request, there's anything else in here concerning his
9 Bradley Carter incident.

10 MR. TABACKMAN: May I just point out one thing? With
11 respect to the Bradley Carter incident, this is the first time
12 there's been a mention of this man -- that there's been a mention
13 of the man Moe Brown as a possible person in the vehicle with
14 Mr. Ball. His name has never come up before and I just wanted
15 the Court to be aware of that.

16 (Brief pause.)

17 THE COURT: Counsel, come up, please.

18 Let me understand what the theory of disclosure was.

19 MR. GUERRERO: The theory of disclosure for this
20 particular -- is if there's nothing inconsistent, we don't
21 release it because they're not entitled to a 302. The only
22 disclosure is if there's something materially different in there,
23 so that's what we've been trying to parse out.

24 The sections that we did release are sections where there
25 might be something arguably inconsistent, but for the defense to

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1 get our entire 302 on a statement that's written by another FBI
2 agent which is not *Jencks* for this witness -- that's why we don't
3 release them.

4 MR. TABACKMAN: Shall we stay here, Your Honor?

5 THE COURT: No. Take your seat.

6 (Brief pause.)

7 MR. TABACKMAN:

8 THE COURT: Counsel, come up.

9 Let me give Mr. -- let me give Mr. Tabackman back his
10 excerpts. I reviewed the unredacted 302 and I think the
11 disclosures that are contained in the redacted 302 concerning
12 Mr. Carter's comments are appropriately disclosed and there's
13 nothing else in the complete 302 that, under the Government's
14 theory of disclosure, needs to be disclosed.

15 I will confess when I first read this, I was operating
16 under what may now be an antiquated review practice that the
17 office, U.S. Attorney's Office doesn't follow anymore. But I'm
18 satisfied that the disclosure, appropriate disclosure has been
19 made and I'll hand Mr. Guerrero back his 302.

20 MR. TABACKMAN: Your Honor, perhaps this may simply be for
21 the record, although I hope not.

22 I think that the failure to disclose the inconsistency --
23 the 302 that bears the inconsistencies with respect to this
24 witness's testimony about Mr. Carter, what Mr. Carter told him,
25 and indeed the inconsistency between what he relates -- it's

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1 inconsistent with the grand jury testimony of Mr. Carter that was
2 read into the record. They put a totally different person in
3 there. And with respect to Mr. Martin's client, Mr. Jones, it
4 moves from he was there to he might have been there.

5 This raises questions, Your Honor, about the Government's
6 ability to discern what is and what is not disclosable in the
7 302s. And while we -- number one, we disagree with respect to
8 their theory under the *Jencks* Act, but in any event, we think
9 that -- we don't know now how many 302s bear the kind of
10 absolutely obvious disclosability -- information as in this 302.
11 It was on the same page.

12 The reason that they put Mr. Green into this, and the
13 Court knows this, is because Carter collapsed. Green had never
14 been -- well, I -- I accept Mr. Green's testimony that he
15 probably talked to Mr. Carter --

16 THE COURT: Can you conclude this?

17 MR. TABACKMAN: The point is -- so they knew what they
18 were doing and they knew why Green was on there and they knew
19 this was an important paragraph. And I think that -- we would
20 ask the Court to require them to produce 302s, any 302s with
21 respect to other witnesses so that the Court can conduct, I
22 understand, a very tedious kind of examination to see if there
23 have been other omissions in disclosure.

24 MR. MARTIN: Your Honor, before you respond to that, may I
25 say something?

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1 THE COURT: Yes.

2 MR. MARTIN: Thank you, sir.

3 With respect to this statement regarding Maurice Andrews
4 perhaps being on the scene, before Mr. Green makes any statement
5 at all about my client, Mr. Joseph Jones, I would like the
6 government to lay a foundation as to the basis of his knowledge,
7 because, again if it's just hearsay, we need to know the source,
8 because Brad Carter, based on the testimony he's given so far,
9 did not mention to him that Jo-Jo was at the scene, so now if he
10 wants to put Mr. Jones at the scene, it must be from a different
11 source. And I would want to know -- I would want a foundation
12 laid first to determine whether or not there is some kind of
13 hearsay exception before that is blurted out in front of the
14 jury.

15 THE COURT: He's not on direct examination anymore.

16 MR. MARTIN: I'm sorry. That's true.

17 THE COURT: And if there's an appropriate objection, I'll
18 be happy to hear it.

19 MR. MARTIN: I'm sorry. You're right. But whatever --
20 okay. I guess on redirect, then, I would make the same argument
21 with respect to redirect.

22 MR. GUERRERO: Your Honor, may I just -- just -- I'll be
23 very brief.

24 We -- all of us over at government table are taking our
25 *Jencks* obligations seriously, our *Brady* obligations seriously.

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1 We worked diligently within 24 hours to scour through notes and
2 302s and produce the materials pursuant to the Court order and we
3 gave that to Mr. Tabackman first thing in the morning. And we --
4 it's our opinion that we are complying legitimately with what our
5 disclosure obligations are and we just want to put that on the
6 record.

7 THE COURT: All right. The -- this incident does not
8 disclose any violation of my order that the government review
9 diligently all of the materials for any of the *Brady* impeachment
10 and produced them promptly. It may underscore the defense's
11 difficulty and perhaps the Court's difficulty with the United
12 States Attorney's Office's policy about what is and isn't *Jencks*
13 and what should or shouldn't be disclosed as *Jencks*. But this
14 incident does not disclose a violation by the government of an
15 order that I entered.

16 I would continue to implore the government to review very
17 carefully all the materials after the witness has testified to
18 make sure that any *Brady* impeachment is promptly disclosed to the
19 defense and that all *Jencks* obligations have been met. I think
20 that's the best I can do at this point.

21 MR. GUERRERO: If I can just put one last thing on the
22 record, the original 302 redacted that was disclosed was actually
23 disclosed May 25th. I misspoke when I said June 1st, but it was
24 disclosed May 25th.

25 THE COURT: Are you ready for the jury, Mr. Tabackman.

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1 MR. TABACKMAN: Yes, Your Honor.

2 (Jury in at 9:59 a.m.)

3 THE COURT: You have the patience of saints. Thank you
4 for your indulgence and good morning.

5 THE JURY PANEL: Good morning.

6 THE COURT: Welcome back. Glad to have everybody back and
7 we're ready to resume.

8 MR. TABACKMAN: Thank you, Your Honor.

9 CONTINUED CROSS-EXAMINATION OF DAMIEN GREEN

10 BY MR. TABACKMAN:

11 Q. Good morning, Mr. Green.

12 A. Good morning.

13 Q. How are you?

14 A. All right.

15 Q. Hopefully, we can get this done today.

16 Just to go back for just a moment to, I think, where --

17 something that we were doing just before we had to break
18 yesterday morning, we were talking about your conversations with
19 prosecutors and police and FBI about the incident with

20 Mr. Carter --

21 A. Yes.

22 Q. -- and his getting shot, when -- do you recall when you
23 were told for certain that you would be a witness here in this
24 trial?

25 A. Well, uhm, I'd say probably 2000 maybe, 2001, I might

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1 be -- it was brought to our attention that they might use us.

2 Q. And so you're saying seven years ago you were told you
3 might be a witness in this trial?

4 A. Yeah.

5 Q. And when were you told that you definitely would be
6 coming to Washington to testify?

7 A. It was last year sometime, early last year. That's when
8 I talked to my agent, Gus, that he asked me -- he wanted me to
9 testify on this case. But before that, prosecutors, you know,
10 they talked to me about the Kevin Gray case and this case.

11 Q. Right. I understand that. But what I'm trying to
12 understand is, you are incarcerated -- and I don't want to know
13 where -- but you're incarcerated somewhere other than in the
14 Washington, DC area, correct?

15 A. Yes.

16 Q. Okay. And at some point someone said to you, we're
17 putting you on a -- I guess it's a bus or a plane or whatever
18 mode of transportation, not important, and said you're coming to
19 Washington, right?

20 A. Naw. Naw. I was in the place where I was at and I
21 talked to my agent and the agent told me that he might need me
22 to testify. So I was like, "All right." So he said, "I'm going
23 to come and see you."

24 So they came and see me, talked to me and then they
25 was like they'll get back with me. And then I talked to them a

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1 couple times on the phone and then that was it.

2 So I'd say after I got the letter for the parole board,
3 seven months done pass. I done went to parole already, so I'm
4 thinking I ain't got to testify. So I thought that was it, so I
5 ain't press the issue. I ain't call nobody, ask them why they
6 ain't call me or none of that. I was like, "Okay, if they don't
7 need me, they don't need me." So it was a done deal.

8 But then it was like I got the call, it was like "Call
9 Washington." So I called Washington, Washington transferred me
10 to the phone -- to the prosecutor and then I talked to him and
11 he said, "We're calling you up." So that's it.

12 Q. Okay. I guess that's what I'm not -- it's that last
13 phone call. When did that happen, the one where you called
14 Washington and talked to the prosecutor?

15 A. I think --

16 Q. Was that within the last few weeks?

17 A. Maybe about two weeks ago.

18 Q. About two weeks ago?

19 A. Yeah.

20 Q. So the time -- now, the time -- the last time that
21 anybody came to visit you where you were being incarcerated, I
22 believe, was -- correct me if I'm wrong -- April 19th of 2006,
23 when Ms. Petalas came with Giannakoulis?

24 A. Yes.

25 MR. TABACKMAN: Does Mr. Wallace need the spelling?

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1 THE COURT REPORTER: No.
 2 MR. TABACKMAN: Good. It's harder than Tabackman.
 3 BY MR. TABACKMAN:
 4 Q. That was the last time you spoke to anyone in person
 5 face-to-face before this recent phone call?
 6 A. Yes.
 7 Q. And your coming to Washington.
 8 And then you said about -- so that was in April. And at
 9 that point, you talked about everything you knew or heard with
 10 Ms. Petalas, Detective Giannakoulis and whoever else was there
 11 at that time, correct?
 12 A. Well, I talked about basically what I can remember at the
 13 time. At the time, I had to think about a lot of stuff.
 14 There's probably a lot of stuff still in there. At that time, I
 15 told them what I knew right at that time, and then if I come up
 16 with anything else, let them know.
 17 Q. Right. And that was in April of 2006. And that was
 18 roughly 12 years or so after this event that you've -- one of
 19 the events that you testified about regarding Mr. Carter and
 20 getting shot, which was in February of '94?
 21 A. Yes.
 22 Q. So it's understandable that that kind of passage of time,
 23 12 years, it's hard to remember everything?
 24 A. Well, it's not hard. I mean, if you living that
 25 lifestyle every day, it's not hard. You ain't going to forget

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1 it like that. When I say you've got to think about it, it's
 2 more so many events that happened, that some of them are
 3 similar, so you have to, you know, space them out and remember
 4 who was here or who was here.
 5 Q. Right.
 6 A. It's sometimes -- you know, I might say he was here on
 7 one case and he was here on this case, but once I think about
 8 it, then the truth come out.
 9 Q. Right. And I'm not suggesting that it's not the truth.
 10 But it is, as you point out, sometimes difficult to separate out
 11 what may have happened in one event involving certain people --
 12 A. No, it's not difficult. It's not difficult at all. It's
 13 just that I have to think about it.
 14 Q. Okay. In any event, you spoke with them in April of 2006
 15 and you said about seven months passed before you had any other
 16 communication with Detective Giannakoulis?
 17 A. During that time, I called him a couple of times.
 18 Q. Okay.
 19 A. And that was it.
 20 Q. And that was brief telephone conversations.
 21 A. We stayed on the phone for probably 45 minutes, an hour
 22 sometimes.
 23 Q. And were you talking about the events back in the day or
 24 were you talking about how you were doing at the time?
 25 A. Basically, he's talking about events back in the day,

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1 my -- what I done done. Same stuff we've been talking about in
 2 here.
 3 Q. Okay. And then after you went to the parole board
 4 sometime in 2006 and you hadn't heard anything in a while, you
 5 had assumed that you weren't going to be a witness, if I
 6 understood what you said before?
 7 A. Yes.
 8 Q. Okay.
 9 A. Yes.
 10 Q. And then you got the call a couple weeks ago that you in
 11 fact were going to be coming down to Washington?
 12 A. Yes.
 13 Q. Okay. And when you came down to Washington, you met with
 14 Mr. Guerrero; is that right?
 15 A. Yes.
 16 Q. And was Detective Giannakoulis there?
 17 A. Yes, sir. Yeah, he was.
 18 Q. Okay. But you had never met with Mr. Guerrero prior to
 19 that?
 20 A. No.
 21 Q. He was a new face for you?
 22 A. Yes.
 23 Q. Okay. And had you spoken with Mr. Guerrero on the phone
 24 before meeting him?
 25 A. Yeah. I spoke to him the week -- I'd say on a Friday. I

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1 think it was a Friday. And then the next week, I met him.
 2 Q. Okay. And -- so once again, you had to talk to him about
 3 the things that had happened, as I'll refer to it, back in the
 4 day --
 5 A. Yes, I talked to him.
 6 Q. -- before you were incarcerated, right?
 7 A. Yes, I talked to him.
 8 Q. Right. And was there -- strike that.
 9 You had spoken about the Carter incident previously --
 10 you can just answer yes or no -- is that right? To the other
 11 people that you had spoken to over the years?
 12 A. Yes, I spoke to -- plenty of times.
 13 Q. Right. Did Mr. Guerrero go over that with you in any
 14 greater detail than, say, it had been gone over before,
 15 specifics?
 16 A. Basically, naw, he just told me to tell him about it. I
 17 told him about it and that was it.
 18 Q. Okay. Was there -- did he focus on what Mr. Carter said
 19 to you when you saw him back on Stanton Road in front of his
 20 house and Monkey Mark's house after the shooting?
 21 A. Say that again.
 22 Q. Was there, in your view, a greater emphases on the
 23 details of what Mr. Carter had said to you about the incident
 24 when he came back?
 25 A. I mean, he just -- he just told me about the whole thing,

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1 what happened.
2 **Q.** Mr. Carter did?
3 **A.** Yeah.
4 **Q.** I'm asking you, was Mr. Guerrero more focused on that
5 piece of it -- let me withdraw that.
6 **A.** I know what you're saying. I mean, yeah, he wanted to
7 know all the details. He wanted to know what all the details
8 were, what really went down. He wanted to know the details so I
9 gave him the details.
10 **Q.** Okay. And I take it that, you know, you named the
11 people -- now, everything that you knew about who was in this --
12 the car where the shooters were was based on what Carter had
13 told you?
14 **A.** Yes.
15 **Q.** Had anybody else told you -- given you an account of what
16 had happened?
17 **A.** Well, yeah. What happened was after Black got out of the
18 hospital, he was at home --
19 **Q.** I don't want to know the substance, but just, you know,
20 did you talk to someone else?
21 **A.** He told me about it.
22 **MR. MARTIN:** Objection.
23 **THE COURT:** "He," who?
24 **THE WITNESS:** Black. Maurice Willis, the one that got
25 shot in the head.

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1 **BY MR. TABACKMAN:**
2 **Q.** So Maurice Willis gave you an accounting? You just have
3 to answer yes or no.
4 **A.** Yes.
5 **Q.** Okay. So you had Mr. Carter's version and you had
6 Black's version, correct?
7 **A.** Yes.
8 **Q.** Okay. Now, when you had spoken with -- now when you
9 testified earlier, rather, in this trial, you named the people
10 that Carter had told you were in the car where the shooter was,
11 correct?
12 **A.** Correct.
13 **Q.** And were you able to separate out in your mind what
14 Mr. Carter told you from what Mr. Willis told you? Black?
15 **A.** I think Black told me --
16 **Q.** Don't get into the substance. I just need an answer.
17 **A.** Yeah. It's a little different, but it's based on the
18 same thing.
19 **Q.** Right. But when you -- what I want to focus on, when you
20 spoke to Detective Giannakoulis and Ms. Petalas and, I believe,
21 Agent Lockhart, when they came to see you --
22 **A.** Yes.
23 **Q.** -- do you recall giving them some names of some people
24 that were definitely or might be in the car where the shooter
25 was?

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1 **A.** Yes.
2 **Q.** Right. And do you recall mentioning that a Moe Brown or
3 Maurice Andrews might have been in the car?
4 **A.** Yes.
5 **Q.** Now, that's not a name that you mentioned in your
6 testimony?
7 **A.** Yes.
8 **Q.** And Moe Brown or Maurice Andrews is a guy who you knew on
9 the street who was associated with Kevin Gray, right?
10 **A.** Yes.
11 **Q.** Not Tommy Edelin?
12 **A.** No.
13 **Q.** So was your statement to Detective Giannakoulis and
14 Ms. Petalas that Mr. Brown may have been in the car --
15 Mr. Andrews was his formal name; Moe Brown is how he's known --
16 was that based on something Mr. Carter had told you?
17 **A.** No.
18 **Q.** That was based on something Black had said to you?
19 **A.** Black had told me, and it was another time when we was
20 all locked up together when we talked about it.
21 **Q.** So you and Mr. Carter and Black all talked about it
22 together?
23 **A.** Yeah. We -- all the guys that testified on Tommy case
24 was in the same block together.
25 **Q.** And that was over at CTF?

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1 **A.** Yes.
2 **Q.** And so when -- and by "Tommy's case," you're talking
3 about Tommy Edelin's case?
4 **A.** Yes.
5 **Q.** And you all were locked up together at CTF for a fairly
6 long period of time, right? A couple months?
7 **A.** About three years.
8 **Q.** Three years. I had forgotten that.
9 And so you had opportunities to talk about it on more
10 than one occasion?
11 **A.** Yeah. We had opportunity to talk about a lot of stuff.
12 **Q.** Did you talk about this case, too?
13 **A.** This case -- it wasn't really a case. It was just more
14 as we knew they was going to get locked up. It was more as like
15 we always say they coming in, too.
16 **Q.** Right. But had you talked about incidents that had --
17 one or the other of you might have been involved in regarding
18 these gentlemen?
19 **A.** Yes. Every -- I'd say everybody was on Tommy case that
20 had any problems with them, when we went to talk to Phleger or
21 Michael Rokaw about anything about our lifestyle, they was
22 involved with it.
23 **Q.** Right. I'm talking about when you guys -- what I
24 understood you to say a few minutes ago was that you and Black
25 and Mr. Carter there at the CTF, just the three of you --

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1 A. No. It probably be them, my cousin, Tall Eric. We be
2 all in the room just talking about everything.
3 Q. Talking about things that happened?
4 A. Talking about everything that happened. We might be
5 talking about testifying. We might be talking about a whole lot
6 of stuff.
7 Q. Right. And people would talk about what they remembered
8 about certain things; is that fair to say?
9 A. It's like, see how we're talking about it? It's not
10 like -- we don't talk about it like that. We talk about it in a
11 different way.
12 Q. I understand. We're in a courtroom and it's --
13 A. Yeah.
14 Q. -- more formal and I appreciate that. I guess what I'm
15 saying, though, is that people would be sitting around and
16 talking and remembering different things, right?
17 A. Yes.
18 Q. And you may remember one thing and somebody else may
19 remember something else about an incident and somebody else may
20 remember something else?
21 A. That's what I said. Like when I got the -- from Brad and
22 then I got it from Black, it's based on the same thing. It's
23 just that Black remembered seeing Moe. So I mean, it's
24 different because Brad ain't never say he seen Moe.
25 So that's like Black say the only thing he remember is

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1 when he turned around, he seen -- he said he didn't even see
2 Antwuan. He said he seen Moe. So the only thing he say he
3 remember was his head was numb. He say he was still woke,
4 talking. And he say the next thing you know, he's in the
5 hospital. So, I mean --
6 Q. But when you -- I'm sorry. I didn't mean to cut you off.
7 The -- were you finished? And I apologize.
8 A. Naw. Go ahead.
9 Q. When you testified, though, you testified to Mr. -- what
10 Mr. Carter had said. I guess that's because you were asked what
11 Mr. Carter had said to you.
12 A. Yes.
13 Q. Right. Okay. So no need to say what Mr. Black had said
14 to you -- Mr. Willis -- because you're talking about Mr. Carter?
15 A. Well, at the time it was more -- when I was explaining
16 the story, it was more as where I was at when this happened. So
17 it led to Mr. Carter. It didn't lead to Black. Black is really
18 after the fact. I talked to Black after he got shot. So it's
19 based on at the beginning of the whole incident.
20 Q. Well, by the way, was Moe Brown locked up over at CTF,
21 too?
22 A. Yeah, he was.
23 Q. Did you talk about this with him?
24 A. Naw.
25 MR. TABACKMAN: Court's indulgence.

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1 BY MR. TABACKMAN:
2 Q. I'll try to circle back to where I was trying to go.
3 The conversation with Mr. Guerrero just before -- in the
4 week or so before you were about to testify focused in greater
5 detail about, you know, what Mr. Carter said when he came back
6 to the house that night than you had before -- more precisely,
7 if that's fair to say?
8 A. He asked me what Brad said to me about the whole
9 situation, but his whole focus was on how Brad react, how was
10 he? He wanted to know. So he wanted to know more details, so I
11 gave him more details. I gave him the details that I remember.
12 Q. Okay. And you had never talked about how Brad appeared
13 to you -- I mean, in that level of detail before? Not the
14 substance of what he was saying, but how he looked when he was
15 saying it? You hadn't talked about that very much before that,
16 right?
17 A. I think the only thing I probably mentioned was he was
18 shaking. He was shaky.
19 Q. In this kind of -- I'm sorry. You're talking in the most
20 recent conversation?
21 A. Yeah, recent conversation. I think I remember saying
22 something about the bullet in his hand. I know -- I think I
23 remember him saying that he was tired, too, but I don't remember
24 me saying that his general -- his blood was flowing. I don't
25 remember saying that, but that's the only thing that's different

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1 from the conversation.
2 MR. TABACKMAN: Court's indulgence.
3 BY MR. TABACKMAN:
4 Q. I guess one last question. Did anybody ever -- or did
5 you ever inquire or did anybody ever offer an explanation why
6 there was a new -- this greater emphasis on how Brad --
7 Mr. Carter appeared at the time?
8 A. Say that again.
9 Q. Did you ever ask or did anybody ever volun-- well, let
10 me do it one way with two different questions.
11 Did you ever ask, "Why are you focusing more on
12 Mr. Carter's appearance, how he appeared to me," in these most
13 recent conversations? Was that something that you asked about?
14 A. Naw.
15 Q. Anybody ever say or give you an explanation why they
16 might need to do that?
17 A. Well, naw, they never told me why, but I mean, I
18 understand you have to go through the details. I understand you
19 want to know what he said. I understand all that.
20 I look at it like this: Half of the details are
21 whatever -- how Brad was acting or whatever. At the end of the
22 conversation, it's still boil down to the end --
23 Q. Okay.
24 A. -- that he shot Black in the head. He shot at the car.
25 It always going to be something different. If you have

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1 somebody else that Brad told might come up here and tell
 2 something different in the whole thing, but at the end of that
 3 conversation, it's going to be that he shot at the car.
 4 **Q.** Right. Based on what Mr. Carter told you?
 5 **A.** Yeah. I'm just saying, if he tells somebody else and you
 6 put him up here, it's going to come out the same way. It might
 7 be something different. He might say that he had on a belt, his
 8 belt was loose. It's always going to be something different in
 9 the conversation.
 10 **Q.** Right. And in this instance, the something different was
 11 a different perception -- a different idea as to who was in the
 12 car?
 13 **A.** I mean --
 14 **Q.** Isn't that correct, sir?
 15 **A.** You have to understand, just like I said, he might tell
 16 you that -- he might didn't see that person in the back seat.
 17 **Q.** I understand.
 18 **A.** So he's just going to tell you who he seen and what
 19 happened. So then the next man can come and tell you who's in
 20 the back seat, what type of rims was on the car and everything.
 21 But you can't get the same story from everybody.
 22 **Q.** Right. Right. And as -- but you would agree that in
 23 this instance, it's a difference as to who was in the car?
 24 **A.** I can --
 25 **Q.** Isn't that correct, sir?

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1 **A.** I can say it's a difference from them two telling the
 2 story, but at the end of the story, both of them say he shot
 3 through the car.
 4 **Q.** Right. Now --
 5 **MR. TABACKMAN:** Court's indulgence. I lost the train of
 6 thought for a second.
 7 **BY MR. TABACKMAN:**
 8 **Q.** Last week when you were talking, when Mr. Guerrero was
 9 asking you questions -- let me strike that. I'm sorry.
 10 You testified at some length in the Edelin case; is that
 11 right?
 12 **A.** Yes.
 13 **Q.** In fact, I think you testified on parts of five or six
 14 days; isn't that right?
 15 **A.** Yes.
 16 **Q.** Right. And you were examined by -- in addition to the
 17 prosecutor, maybe five or six different defense lawyers; isn't
 18 that right?
 19 **A.** Yes.
 20 **Q.** And the Edelin Group, and this is just a context, was
 21 beefing with a number of different organizations; isn't that
 22 right?
 23 **MR. GUERRERO:** Objection, relevance.
 24 **THE COURT:** Sustained.
 25 **BY MR. TABACKMAN:**

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1 **Q.** In the course of the Edelin trial, did the prosecutor ask
 2 you any questions at all about Antwan Ball?
 3 **MR. GUERRERO:** Objection, relevance.
 4 **THE COURT:** Wasn't that asked already?
 5 **MR. TABACKMAN:** Well, I may have asked it yesterday, Your
 6 Honor. I'll move on.
 7 **BY MR. TABACKMAN:**
 8 **Q.** Did the prosecutor -- do you recall testifying at all
 9 about anything to do with Bradley Carter in the Edelin trial?
 10 **MR. GUERRERO:** Objection, asked and answered.
 11 **MR. TABACKMAN:** That has not been asked, Your Honor.
 12 **THE COURT:** I'll allow that one.
 13 **THE WITNESS:** I think so. I think -- I don't remember. I
 14 think so. I'm not for sure, but I think so.
 15 **BY MR. TABACKMAN:**
 16 **Q.** If I -- I would represent to you that Mr. Carter's name
 17 does not appear in a word search of the transcript of your
 18 examination and I would ask you if you have a clear recollection
 19 to the contrary.
 20 **MR. GUERRERO:** Objection, Your Honor. Form.
 21 **THE COURT:** Sustained.
 22 **THE WITNESS:** I'm not for sure.
 23 **THE COURT:** That means you don't have to answer.
 24 **MR. TABACKMAN:** Your Honor, may we approach.
 25 **THE COURT:** Huh?

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1 **MR. TABACKMAN:** May we approach?
 2 **THE COURT:** Yes.
 3 (Following sidebar discussion had on the record:)
 4 **MR. TABACKMAN:** I'm not going to go into detail. The
 5 other day when he was testifying and he wanted to answer and I
 6 wound up finally intervening and trying to cut him off because I
 7 think I had said -- I was trying to be polite, and he had talked
 8 about -- or given the impression that this trial was simply the
 9 flip side of the Edelin trial. He's testified against these guys
 10 the way -- he testified against one group in the beef in the
 11 Edelin trial and now he's testifying against the other group.
 12 The fact of the matter is that in his testimony, and I
 13 stake my license on this, there is -- other than a one-word
 14 mention of Reeseey, there is no reference at all to anything with
 15 Congress Park. And the only time he's asked about Antwan Ball
 16 is when Jensen Barber, the last cross-examiner, takes a list of
 17 every person that's involved with anything.
 18 And I just want to ask one or two questions to try to
 19 establish that, in fact, you know, this isn't -- this wasn't the
 20 primary, you know, focus of these things, that the only thing he
 21 knows about that, this beef, couldn't have been as great or as
 22 significant, with respect to him at least, because he was never
 23 even asked any questions about it, that focused on it.
 24 And I want to question him and move on to establish that
 25 context, that all he knows is this hearsay about Carter -- that

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1 Carter told him.
 2 THE COURT: What is your request?
 3 MR. TABACKMAN: That I be allowed to ask --
 4 THE COURT: Not that way, no. You're testifying. I won't
 5 permit that.
 6 MR. TABACKMAN: I'm not sure how, given six days of
 7 testimony, how one gets into the witness without asking him to
 8 examine the entire transcript.
 9 THE COURT: I'm not going to tell you how to try your
 10 case. The objection is to form. The form is you testifying.
 11 I'm going to sustain the objection.
 12 MR. TABACKMAN: I didn't realize the objection was to
 13 form. I'll try to figure out another way to do it.
 14 (Sidebar discussion concluded.)
 15 MR. TABACKMAN: Court's indulgence.
 16 BY MR. TABACKMAN:
 17 Q. In the course of your examination, your testimony in the
 18 Edelin trial, you testified about a large number of people;
 19 isn't that right?
 20 A. Yes.
 21 Q. And you recall that the last person -- the last lawyer
 22 before Mr. Quander -- he was the prosecutor, right?
 23 Mr. Quander?
 24 A. Yes.
 25 Q. All right. There was a lawyer who had some photographs

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1 and he tried to take you through all the different names of
 2 people that had come up during your testimony or that had been
 3 involved in one way or another with Tommy Edelin?
 4 A. Yes.
 5 Q. All right. And do you recall that in the course of that
 6 last examination by that lawyer, he went through the various
 7 areas of -- around Congress Heights and Stanton Terrace one by
 8 one; isn't that right?
 9 A. Well, during the trial, he -- from my knowledge, he based
 10 on --
 11 Q. Well --
 12 A. -- was talking about more the beef with Stanton Terrace
 13 and -- with me anyway, but --
 14 Q. Right. With you.
 15 A. As far as with me, it was more he talked about the beef
 16 with Stanton Terrace. Only on how Congress Park came in with my
 17 conversation, because Cool Wop, he always used to be with Tweety
 18 and them.
 19 Q. Right.
 20 A. Now, they never really got to talk to me about did
 21 Congress Park beef that much. The only thing I talk about the
 22 Congress Park beef with was about how it started with Reese and
 23 how it ended with Antwuan and Squid beefing.
 24 So really, it started off with Squid and just Antwuan
 25 beefing, because Squid --

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1 Q. I need to ask you to focus on the question, okay, and I
 2 can't let you do a narrative.
 3 A. I just wanted you to understand -- I want you to
 4 understand the whole picture.
 5 Q. Well, you need to answer the questions. I'm not trying
 6 to cut you off, Mr. Green, but it works better, you know, doing
 7 it question and answer, okay.
 8 The -- and I want to focus for a moment on that last
 9 examination.
 10 A. Right.
 11 Q. And do you agree -- do you agree with my characterization
 12 that you were asked about by that examiner -- he went through
 13 the various areas one by one?
 14 MR. GUERRERO: Objection, asked and answered.
 15 THE COURT: I'll allow it.
 16 THE WITNESS: Uhm --
 17 BY MR. TABACKMAN:
 18 Q. And if looking at your transcript would refresh your
 19 recollection, I can do that.
 20 A. Yeah. He asked me one by one about a lot of different
 21 things.
 22 Q. Right. And one of the -- and at one point, he got to
 23 Congress Park; isn't that right?
 24 A. I'm not for sure. You have to read it to me.
 25 Q. Okay.

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1 MR. TABACKMAN: Court's indulgence.
 2 BY MR. TABACKMAN:
 3 Q. Do you recall him -- Mr. Barber, that is -- you went
 4 through the different people whose names came up in your
 5 testimony; you would assign them and say that person is
 6 associated with this group --
 7 A. Yes.
 8 Q. -- and this other person is associated with this other
 9 group, correct?
 10 A. Yes.
 11 Q. And when he came to somebody like Squid, he'd say, "Well,
 12 he's associated 50/50 with different groups," right?
 13 MR. GUERRERO: Objection, relevance.
 14 THE COURT: I'll give you some leeway.
 15 BY MR. TABACKMAN:
 16 Q. Right. And then he came to -- and then he asked you, if
 17 you recall this -- it's not impeachment -- he said: "Now, let's
 18 talk about the wonderful Congress Park area, okay? We have the
 19 Ball family, Violet Ball, yes?"
 20 MR. GUERRERO: Objection, Your Honor. Can we approach?
 21 THE COURT: Yes.
 22 (Following sidebar discussion had on the record:)
 23 MR. GUERRERO: Mr. Tabackman is reading into the record a
 24 piece of trial transcript from another case that's not in
 25 evidence and he's reading it word for word to this witness

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1 without laying any foundation to either refresh the witness's
2 recollection or to impeach the witness. He's just reading other
3 testimony before the jury without it even being admitted.
4 MR. TABACKMAN: Your Honor, the witness has said to me,
5 you know, that I would have to read it to him. I would normally
6 ask that the witness read it to it himself. There is some
7 indication that the witness has reading problems and I think it's
8 important in the scope of what he said about Mr. Ball in the
9 course of that trial that it be clear to the jury, because the
10 picture that the government wants them to draw is that -- that he
11 is a man who knows these guys very well.

12 He doesn't even testify about Mr. Wilson, for example, and
13 his testimony about Mr. Ball is that he used to be in Congress
14 Park. I think that this is the only way I can get that out.

15 THE COURT: You're trying to get out testimony that
16 Mr. Ball used to be in Congress Park?

17 MR. TABACKMAN: I'm saying this witness says -- when he
18 describes Mr. Ball --

19 THE COURT: In his direct testimony here or --

20 MR. TABACKMAN: In the Edelin trial, all he says is he
21 used to be -- quote it as: "He used to be around there," when
22 he's asked who was Antwuan Ball. This is in 2001, when he's
23 still on the street.

24 So there's -- and there's no other mention of Mr. Ball in
25 this entire Edelin trial. So the only thing he's got is hearsay

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1 about Bradley Carter. And I think for the jury, it undercuts to
2 a substantial degree his direct testimony in this trial.

3 THE COURT: I'll give you some leeway, but if you're going
4 to be reading verbatim from a transcript that extends far
5 beyond the ultimate question of weren't you asked about Antwuan
6 Ball and Congress Park and didn't you just say "He used to be
7 around there," I'm going to cut you short.

8 (Sidebar discussion concluded.)

9 MR. TABACKMAN: Your Honor, may I approach the witness?

10 THE COURT: Yes.

11 BY MR. TABACKMAN:

12 Q. This is volume 69 of the Edelin trial. The day is July
13 24th, 2001 and page 14915 --

14 MR. TABACKMAN: May I inquire of the witness, would it be
15 easier if I read this?

16 THE WITNESS: Yes.

17 MR. TABACKMAN: Shall I read it out loud or just to the
18 witness, Your Honor? I'm doing it to refresh his recollection.

19 THE COURT: Have you established the proper predicate for
20 refreshing recollection?

21 MR. TABACKMAN: Well, my -- that's fine, Your Honor. We
22 can do it this way.

23 THE COURT: What way?

24 MR. TABACKMAN: Well, the way we discussed at the bench,
25 Your Honor.

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1 THE COURT: We didn't discuss this at the bench just now.
2 Come on up.

3 (Following sidebar discussion had on the record:)

4 THE COURT: I heard you say you would help him refresh his
5 recollection, but maybe I misheard that. But if you're going to
6 do that, you have to establish a predicate for it.

7 MR. TABACKMAN: Your Honor, when Mr. Guerrero objected to
8 my reading from the transcript and the Court said, "I'll give you
9 some leeway to do it," it occurred to me that perhaps a better
10 way to do it was to read silently to the witness rather than --
11 the Court had told me that I could read out loud and I was trying
12 to be fairer to the government, perhaps, and do it silently and,
13 therefore, was trying to come up -- to suggest that's a reason to
14 do it.

15 THE COURT: You're either refreshing his recollection or
16 you're not. If you're refreshing his recollection, lay the
17 foundation for it. If you're not refreshing his recollection,
18 that's a different thing. So what are you doing?

19 MR. TABACKMAN: I'm just going to read this out loud. I
20 will read this to him, as the Court said I could, to see -- to
21 have him acknowledge that that was his testimony in the Edelin
22 trial.

23 He testified for six days. I can't have him say, you
24 know, "What did you testify to in the Edelin trial?"

25 THE COURT: What are you going to do next?

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1 MR. TABACKMAN: I'm going to read out loud this portion of
2 the transcript.

3 THE COURT: What portion?

4 MR. TABACKMAN: The portion where he is asked these
5 questions about the Ball family in Congress Park, which I would
6 represent is the entirety of the examination of this witness in
7 the Edelin trial about Mr. Ball.

8 THE COURT: From what page and line to what page and line?

9 MR. TABACKMAN: Page 14915, beginning at line 4 and going
10 to line -- I guess I can stop at Ball, line 20. I can ask him if
11 he remembers first.

12 THE COURT: Anything else?

13 MR. GUERRERO: Your Honor, we still object because we
14 still don't have the predicate -- our initial objection was
15 Mr. Tabackman is reading this out loud in front of the jury
16 without first establishing whether it's going to be impeachment,
17 whether this witness, Damien Green, has said something before
18 this jury that's different in the Edelin trial. There's no
19 connection there.

20 And then second, whether Mr. Tabackman wants to refresh
21 the recollection of this witness by reading out loud, that's
22 improper. That's not the proper refreshing recollection. But
23 even if that's where he was going to go, there's still no
24 predicate foundation to establish that reading this testimony on
25 page 14915 of July 24th, 2001, would refresh Damien Green's

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1 memory about what he said in that trial.
 2 THE COURT: Correct. So you can't refresh his
 3 recollection. I take it you're now wanting to impeach him?
 4 MR. TABACKMAN: I haven't tried. I haven't asked him what
 5 his recollection is yet, so --
 6 THE COURT: So you're going back to refreshing
 7 recollection?
 8 MR. TABACKMAN: I'll try that. I'll do that.
 9 THE COURT: Try what?
 10 MR. TABACKMAN: I will ask him what his recollection was
 11 regarding his testimony about Mr. Ball's -- about Mr. Ball in the
 12 Edelin trial.
 13 (Sidebar discussion concluded.)
 14 BY MR. TABACKMAN:
 15 Q. Mr. Green, do you recall today what your answers were --
 16 what your testimony was to the questions that I described to you
 17 before from the lawyer that -- Mr. Barber, who was asking you at
 18 the end of your cross-examination?
 19 A. Do I understand the questions that he asked me?
 20 Q. Do you recall what your testimony was?
 21 A. Yes.
 22 Q. Okay. And what was your testimony with respect to your
 23 description of Congress Park, Mr. Ball and Congress Park?
 24 MR. GUERRERO: Objection, time frame, date.
 25 THE COURT: I'll allow it.

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1 THE WITNESS: Uhm --
 2 BY MR. TABACKMAN:
 3 Q. I'm asking you now to recall what your testimony was
 4 then.
 5 A. It was based on telling how Antwuan and Squid started
 6 beefing.
 7 Q. Okay. Do you recall being asked -- and is that your
 8 recollection of your -- your testimony in response to
 9 Mr. Barber's questions?
 10 A. Yes. It was based on how the beef started.
 11 Q. Okay. Do you recall being asked the following questions
 12 and giving the following answers:
 13 "Question: Now, let's talk about the wonderful Congress
 14 Park area, okay? We have the Ball family, Violet Ball, yes?
 15 "Answer: Who?
 16 "Question: Violet. Do you know Ms. Vi, Violet Ball?
 17 "Answer: Ms. Val?
 18 "Question: Uh-huh.
 19 "Answer: I don't know her. I just --
 20 "Question: All right. Do you know if she lives in
 21 Congress Park?
 22 "Answer: No. I don't think so, no.
 23 "Question: Okay. So you -- how about Kairi Ball?
 24 "Answer: He used to be around there.
 25 "Question: How about Antwuan Ball?

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1 "Answer: He used to be around there.
 2 "Question: How about Aman Ball?"
 3 MR. GUERRERO: Objection.
 4 THE COURT: Sustained.
 5 BY MR. TABACKMAN:
 6 Q. Do you recall being asked those questions and giving
 7 those answers?
 8 A. To be honest with you, that's -- to me, that's a lie,
 9 because I don't know his mother, but I know his mother raised
 10 them around Congress Park. I know his mother went to jail for
 11 Tommy, so I think that's a lie. I don't remember me answering
 12 them questions like that.
 13 Q. Okay. Are you saying that the transcript has it wrong?
 14 A. That's how I see it because I don't think that's true.
 15 Q. Okay. And other than the questions and answers that I
 16 just read to you, can you recall -- not what you testified --
 17 not just generally what you think you testified to: Can you
 18 recall specific questions that you were asked about Antwuan
 19 Ball --
 20 MR. GUERRERO: Objection, asked and answered.
 21 BY MR. TABACKMAN:
 22 Q. -- in the Edelin trial?
 23 THE COURT: Sustained.
 24 BY MR. TABACKMAN:
 25 Q. Now, you did testify about a lot of other subjects,

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1 didn't you?
 2 A. Yes.
 3 Q. Over six days?
 4 A. Yes.
 5 Q. And they involved lots of other people, didn't they?
 6 A. Yes.
 7 MR. GUERRERO: Objection, asked and answered.
 8 THE COURT: Sustained.
 9 BY MR. TABACKMAN:
 10 Q. You testified about Squid; is that right?
 11 MR. GUERRERO: Same objection.
 12 THE COURT: Sustained.
 13 BY MR. TABACKMAN:
 14 Q. You testified about Mr. Edelin's -- the Edelin Group's
 15 interaction with a variety of organizations, correct?
 16 MR. GUERRERO: Objection, asked and answered.
 17 THE COURT: Sustained.
 18 BY MR. TABACKMAN:
 19 Q. You testified about his beef with Kevin Gray; is that
 20 right?
 21 A. Yes.
 22 MR. GUERRERO: Objection, relevance.
 23 THE COURT: Sustained.
 24 BY MR. TABACKMAN:
 25 Q. You testified --

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1 MR. TABACKMAN: On relevance grounds, Your Honor?

2 THE COURT: Absolutely.

3 BY MR. TABACKMAN:

4 Q. And you testified in this trial on Thursday to certain
5 interactions with Mr. Ball; is that right?

6 A. Yes.

7 Q. Now, one of those, you said, involved Mr. Faison? Yes or
8 no?

9 A. On which incident?

10 Q. Well, you testified to an incident where Mr. Ball and
11 Mr. Wilson were supposedly together?

12 A. Yes.

13 Q. All right. And that's not an incident that you testified
14 about in the Edelin trial, was it?

15 A. I know that I told him about it, but --

16 Q. I didn't ask you that, sir.

17 A. He probably didn't ask me about it. I'm not for sure. I
18 don't remember him asking me about it in the Edelin trial.

19 Q. Fair enough. You have no recollection of being asked
20 about that incident in the Edelin trial?

21 A. Naw.

22 Q. Okay. I believe you testified to an incident where --

23 that involved Tony Edelin and Mr. Ball. Mr. Ball said
24 something, Mr. Edelin tried to say something to him and Mr. Ball
25 said something in response about you killed my man?

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1 A. Right.

2 MR. GUERRERO: Objection, Your Honor. Misstates the
3 evidence.

4 THE COURT: Beg your pardon?

5 MR. TABACKMAN: No, it does not misstate the evidence.

6 THE COURT: I asked him to repeat what he said.

7 MR. GUERRERO: Misstates the evidence, Your Honor.

8 MR. TABACKMAN: It does not misstate the evidence, Your
9 Honor. I can virtually quote it.

10 THE COURT: I'll allow it.

11 BY MR. TABACKMAN:

12 Q. Do you recall the question?

13 A. Yes.

14 Q. You testified to an incident, an incident such as the one
15 I just described?

16 A. The two incidents you just said -- you got to understand,
17 them two incidents you just said, it wasn't -- in the trial,
18 they're asking questions about as far as what violence was going
19 on. They didn't ask about --

20 Q. Sir --

21 A. -- what Cool Wop did when he got out the car or what JJ
22 do, because JJ not on trial, Cool Wop not on trial. It was
23 Tommy on trial.

24 Q. Sir, let me ask you a question.

25 A. So --

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1 Q. Sir, your answer is non-responsive. You cannot --

2 What questions did they ask about violence involving any
3 of these men and the Edelin case -- in the Edelin case?

4 MR. GUERRERO: Objection, Your Honor. Relevance.

5 MR. MARTIN: Your Honor, I object as well.

6 MR. TABACKMAN: I'll rephrase the question, Your Honor.

7 BY MR. TABACKMAN:

8 Q. The violence that was asked about, of you when you were
9 on the witness stand, had to do with Kevin Gray, didn't it?

10 MR. GUERRERO: Objection, relevance.

11 MR. TABACKMAN: The witness has made a statement, Your
12 Honor, that they asked about violence involving Congress Park. I
13 will make a representation that --

14 THE COURT: Don't represent in front of the jury. I don't
15 want your testimony.

16 MR. TABACKMAN: Well, Your Honor, then I need to be able
17 to cross-examine the witness on his statement.

18 THE COURT: You can't testify in front of the jury.

19 MR. TABACKMAN: I'm not going to testify.

20 THE COURT: If you want to be able to approach, you can
21 ask to do that.

22 MR. TABACKMAN: May I approach?

23 THE COURT: All right.

24 (Following sidebar discussion had on the record:)

25 THE COURT: Bring the transcript if you're --

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1 MR. TABACKMAN: This is my transcript, four pages to a
2 page, of Mr. Green's entire testimony in the Edelin trial.

3 THE COURT: Where is the transcript with his testimony
4 that you're saying your questioning is directed to?

5 MR. TABACKMAN: Yes, Your Honor. He --

6 THE COURT: Involving his prior direct testimony in this
7 trial pertaining to some comment on his part about this --

8 MR. TABACKMAN: But that's not what his latest comment
9 was, Your Honor. He agreed that the questions -- what he said
10 was --

11 THE COURT: In this trial?

12 MR. TABACKMAN: May I --

13 THE COURT: No, answer my question.

14 MR. TABACKMAN: Yes, yes.

15 THE COURT: In this trial?

16 MR. TABACKMAN: In this trial, he described two incidents.

17 And I said to him, they weren't asked about in -- he wasn't asked
18 about any of that in the Edelin trial. And he said because in
19 the Edelin trial, they were interested in asking about the
20 violence that was done. And the fact of the matter is --

21 THE COURT: That's what I want you to show me. Where is
22 the transcript where you say he says that? That's what I want to
23 see.

24 MR. TABACKMAN: He said that just now. He said that for
25 the first time just now. He said -- he agreed that the incidents

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1 that he talked about in this trial were not ones that were --
 2 that he was asked about by the prosecution or anybody else in the
 3 Edelin trial. And he said, in a non-responsive comment, they
 4 were only asking about -- because they weren't interested in all
 5 of JJ and all of that. They were interested in the violence.
 6 Well, the fact of the matter is they never asked about any
 7 violence on the part of these people. That's my point. And now
 8 the statement's in the record that somehow or another, they asked
 9 about other things involving Congress Park. They did not ask him
 10 about Congress Park, other than Jensen Barber's one question when
 11 he was trying to go through and place all these people in the
 12 various groups.

13 THE COURT: When you were up here before, you said that
 14 you were exploring this area because in his direct testimony, he
 15 made some claim that the -- he had an expectation or belief that
 16 he had testified about the Kevin Gray people or the Tommy Edelin
 17 people; the time would come around, he's got to testify about the
 18 Congress Park people. Something to that effect.

19 MR. TABACKMAN: I've implied that he said it again
 20 yesterday. I can get that for you. It will take a couple
 21 minutes.

22 THE COURT: Are you exploring this area for some reason
 23 other than to attack that comment?

24 MR. TABACKMAN: No, no.

25 THE COURT: Now, I gave you leeway. I thought you had

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1 based that request upon that previous direct testimony.

2 MR. TABACKMAN: Right, but I mean -- that's exactly right.
 3 And what I'm trying to show is that, you know, the testimony that
 4 he is giving in this trial is -- how do I describe it? -- was
 5 stuff that wasn't even of consequence apparently in the Edelin
 6 trial. Again, that -- I don't know how else to articulate it.
 7 The government's theory is that part of the -- a lot of
 8 the violence here is having to do with this beef and this witness
 9 is on there and now he's come forth and made these global
 10 statements about how that trial was about that half of the beef
 11 and this trial is about this half of the beef.

12 And the fact of the matter is in that trial, they never
 13 asked about any interactions between the people that are on trial
 14 here as connected to the people who were on trial there, how
 15 those people interacted here. And I'm just trying to show that,
 16 you know, these incidents that he's talking about are ones that
 17 now, as the prosecution wants to bolster their case over here,
 18 we're now hearing about, you know, incidents that are
 19 inconsequential. And they are very vague in his direct
 20 testimony.

21 THE COURT: Is there any reason why you can't dispatch
 22 that idea in three questions? This is taking an awfully long
 23 period of time to get to for a very small point.

24 MR. TABACKMAN: Well, I think that there are a few -- not
 25 many more than that -- questions, Your Honor, but there have been

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1 objections. And I think they're not well founded.

2 MR. GUERRERO: I disagree, Your Honor. I think what
 3 Mr. Tabackman is trying to do is juxtapose the two cases, the
 4 Edelin case versus the Congress Park case, and that now Damien
 5 Green in the Congress Park trial is saying incriminating
 6 testimony against these defendants which Damien Green never
 7 mentioned in the Edelin trial.

8 And there's a perfectly logical explanation for that,
 9 which the witness explained. That was the Edelin trial.
 10 Congress Park was not on trial. We weren't talking about
 11 Congress Park. Mr. Tabackman has made that point clear a couple
 12 of times. Now, granted, a couple of times he hasn't gotten the
 13 response he wanted, but the witness has been trying to explain
 14 that to him for the last about 35 or 40 minutes. And we keep on
 15 going in circles and now he's talking pulling out transcripts,
 16 talking very vaguely about how he knew Antwuan Ball, and he still
 17 hasn't tied it up to the impeachment.

18 MR. TABACKMAN: That's about the most disingenuous
 19 statement I think I've heard in the last decade. The government
 20 has put on a case and they said, you know, these two groups were
 21 beefing and this witness supposedly knows something about it.
 22 And I'm not allowed -- and then the witness they put on the stand
 23 says, you know, I'm just flipping the other side. I testified to
 24 all of this beef between the two of them in that trial and now
 25 I'm testifying to the same beef, but from the perspective of

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1 these guys in this trial.

2 And the fact of the matter is -- is that that's not true.

3 THE COURT: Is there any reason why you can't get that
 4 point out in three questions? "Mr. Carter [sic], isn't it true
 5 that nobody asked you about X incident? Mr. Carter, [sic] isn't
 6 it true that you never testified about Y incident? Mr. Carter
 7 [sic], isn't it true that in the Edelin trial, nobody asked you
 8 about Z incident?" And then finish up?

9 MR. TABACKMAN: Fine. You know, I'd also like to show,
 10 Your Honor, that they never asked about any incidents. This
 11 notion that somehow or another he's just flipping to the flip
 12 side -- standing on this side of the street and testifies this
 13 way and then stands on the other side on the street and testifies
 14 for the other side -- isn't true.

15 THE COURT: And the fourth question: "Isn't it true that
 16 they never asked you in the Edelin trial about any of the
 17 incidents that you just testified about in direct examination?"
 18 So that's four questions.

19 MR. TABACKMAN: Other than trying to lay a context, Your
 20 Honor, in a few questions, that's where I was going.

21 THE COURT: I'll let you do that. I'll let you ask those
 22 limited number of questions. This is just taking much too long
 23 for too minor of a point.

24 (Sidebar discussion concluded.)

25 BY MR. TABACKMAN:

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1 Q. Yes or no, Mr. Green, the incident that you testified to
2 in this trial regarding where you and Mr. Faison supposedly had
3 an encounter with Mr. Ball and Mr. Wilson never came up in the
4 Edelin trial? You weren't asked about that; isn't that right?
5 A. Correct.
6 Q. And the incident where Mr. Ball said something to, I
7 believe you testified, to Tony Edelin -- do you recall your
8 testimony here about that?
9 A. Correct.
10 Q. All right. That didn't come up in the Edelin trial
11 either, did it?
12 A. I don't remember.
13 Q. And you also have no recollection of testifying in the
14 Edelin trial about the incident that you described regarding
15 Mr. Wilson and Tweety; isn't that right? That didn't come up
16 either?
17 A. Mr. Wilson? Who's Mr. Wilson?
18 Q. Cool Wop.
19 A. Oh, okay. Yeah, I had told Phleger about it.
20 Q. Right. I'm talking about --
21 A. As a matter of fact, I did testify on that.
22 Q. You did testify on that?
23 A. I think I did.
24 Q. And you believe that's in the transcript?
25 A. I should be. If it's in there, I think I did.

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1 Q. Okay. And was it Mr. Quander who asked you about it?
2 A. I don't remember who asked me about it, but I believe
3 it's probably in there. Most likely it is in there.
4 Q. Was it Mr. -- do you remember -- but you have no idea
5 whose lawyer asked you about it?
6 A. Naw, it wasn't -- I don't think no lawyer asked me about
7 it. I think -- I think I was telling one of the stories about
8 when Tweety came through. I told a number of stories when
9 Tweety and them came through. I think I told him that one and
10 the one when they came through the cuts.
11 Q. But you're not sure about that, are you?
12 A. I'm close to be there, but --
13 Q. Right?
14 A. -- I'm not all the way there yet. But I think I did.
15 Q. All right. And other than the question that I read to
16 you before about Mr. Ball, there were no other questions about
17 his conduct asked of you by the prosecutor in the Edelin trial;
18 isn't that right?
19 A. I think so. I think it was more of me telling about him,
20 about the Squid situation as far as after Reeseey got killed. So
21 it was more -- his name was coming in and out because I had to
22 tell the story of how --
23 Q. I'm sorry. Go ahead.
24 A. -- how they was beefing, how the beef started.
25 Q. And how would you establish how many times Mr. Ball's

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1 name got mentioned during your transcript?
2 A. I can't even -- I don't know.
3 Q. Do you know if it was more than one time?
4 A. I don't know. I know it was mentioned.
5 Q. And you know it was mentioned on some occasion other than
6 the one question that I just asked you?
7 A. I'm not for sure.
8 Q. You're not sure about that?
9 A. Naw.
10 Q. Now, at the -- the testimony you've given here about the
11 incidents that you did testify to involving Mr. Ball, can you
12 tell -- the incident that Mr. Faison was supposedly a part of,
13 when did that occur?
14 A. I think that happened like '95.
15 Q. When in '95?
16 A. During the summertime. I think during the summertime.
17 Q. And why do you say it was '95?
18 A. Because I had my cousin Caprice. He was locked up during
19 '95.
20 Q. Okay. And when in the summertime?
21 A. I don't remember. I think it was summer -- I think it
22 was just summer. I don't know what month or none of that. I
23 know he was locked up at that time. I had his car.
24 Q. Who was?
25 A. My cousin. So I had his car at that time, so I think it

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1 was '95. He was locked up in '95. I think he came home at the
2 end of '95, I think.
3 Q. But you can't say what day it was?
4 A. Naw.
5 Q. You can't say what month it was?
6 A. Naw.
7 Q. And exactly where was it?
8 A. It was on Congress Place.
9 Q. On Congress Place. Congress Place near where?
10 A. By Stanton Road.
11 Q. And what time of day was it?
12 A. It was -- school was just letting out.
13 Q. And you were parked?
14 A. Yes.
15 Q. Mr. Ball came driving down the street?
16 A. Well, I was facing going towards Stanton Road and he came
17 up Congress.
18 Q. You were on Congress Place?
19 A. Yes.
20 Q. He was coming on Congress Place?
21 A. Yes.
22 Q. Had he turned off of Stanton Road?
23 A. Well, that was after the fact.
24 Q. Well, did you see where he came from?
25 A. He came from Congress Park.

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1 Q. And how do you know that, sir?

2 A. I mean that's the way he came from.

3 Q. That was the direction he was coming when you saw him?

4 A. Yes.

5 Q. Was he on Stanton Road or Congress Place?

6 A. He stopped on Congress Place.

7 Q. What kind of car was he driving?

8 A. I don't remember what kind of car.

9 Q. Was it a big car or little car?

10 A. I don't know. I know it was a four-door car.

11 Q. Was it a light colored car or a dark colored car?

12 A. I don't remember.

13 Q. Was it an American car or European car?

14 A. I don't remember.

15 Q. But you remember that he parked up next to you?

16 A. He didn't park next to me. I was parked and he rolled up

17 and he wasn't going fast and we caught eye. We looked at each

18 other and then he pulled up and then he stopped. By that time,

19 I had JJ daughter right here. He was standing in the doorway of

20 the car. And Cool Wop got out the car and started walking

21 towards -- to the court. And that's when JJ was like, "Let me

22 holler at you." And he was like, "Naw," with a grin on his

23 face. And that's when Antwuan got out the car and was like,

24 "Naw, you can't holler at nobody."

25 Q. So Antwuan -- Mr. Ball said to Mr. Faison that Mr. Faison

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1 couldn't talk to Mr. Wilson?

2 A. Yes.

3 Q. Mr. Wilson couldn't speak for himself?

4 A. I mean he could have, but, you know, that's his son. You

5 know, he basically raised him.

6 Q. He basically raised -- oh, okay. And where did he do

7 that? He supported him, did he?

8 A. I mean, he basically raised him. Cool Wop always hung

9 under Antwuan. He always be with him. I mean, everybody know

10 that was like his son.

11 Q. Everybody know -- well, when you were asked a question,

12 who is Antwuan Ball, in 2001, in Congress Park, you said, "He

13 used to be there." That was your testimony in the transcript?

14 A. Just like I told you, I don't believe that's true there

15 because he is Congress Park.

16 Q. So you -- so the transcript got it wrong?

17 A. That's how I see it.

18 Q. Have you looked at any of your other transcripts, sir?

19 A. No, I never looked at it, but that's wrong, because it's

20 like I said. He is Congress Park.

21 Q. And how did the reporter get it wrong, sir?

22 MR. GUERRERO: Objection, Your Honor, speculation.

23 BY MR. TABACKMAN:

24 Q. Do you have an explanation in your mind --

25 MR. TABACKMAN: I'm sorry, Your Honor. I was rephrasing.

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1 BY MR. TABACKMAN:

2 Q. Do you have an explanation in your mind as to how the

3 reporter at that trial in this courthouse got that testimony so

4 wrong?

5 A. Maybe -- I don't know. Maybe the question was different.

6 I don't know, but I know that him not being around Congress

7 Park -- that's wrong.

8 THE COURT: What did you say?

9 THE WITNESS: Him -- Antwuan not being in Congress Park,

10 that's wrong. He always was in Congress Park.

11 BY MR. TABACKMAN:

12 Q. So the testimony that -- at least the testimony that's

13 recorded on that page, according to you today, is wrong?

14 A. That's how I see it.

15 Q. And you're saying that you never said that?

16 A. I'm not saying that --

17 MR. GUERRERO: Objection, Your Honor. Asked and answered.

18 MR. TABACKMAN: I never asked that question, I don't

19 believe.

20 THE COURT: Sustained for other reasons.

21 BY MR. TABACKMAN:

22 Q. Are you saying, sir, that you didn't say the words that

23 appear on the transcript page?

24 A. Yes.

25 THE COURT: All right. I can't allow that because he's

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1 testified to something that's completely different from what you

2 said the transcript says. That's just an unfair approach. He

3 has to give testimony that is not he is saying is on that

4 transcript page, so you have to clear that up if you want to

5 pursue it.

6 MR. TABACKMAN: I'm asking him, on the transcript page --

7 BY MR. TABACKMAN:

8 Q. I'm asking you, sir, what appears on the transcript

9 page -- are you saying that you never said those words?

10 THE COURT: Sustained.

11 MR. GUERRERO: Objection, Your Honor.

12 THE COURT: You have to identify exactly what is on the

13 transcript page since that language is different from what he

14 just testified about believing is on the transcript page.

15 BY MR. TABACKMAN:

16 Q. Do you recall being asked the following question -- well,

17 there are a series of questions, in order to give the context.

18 "Now, let's talk about the wonderful Congress Park area.

19 Okay. We have the Ball family. Violet Ball. Yes?"

20 MR. GUERRERO: Objection.

21 THE COURT: Sustained. Move to the line where the direct

22 question was and the direct answer.

23 BY MR. TABACKMAN:

24 Q. "Question: How about Antwuan Ball?

25 "Answer: He used to be around there."

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1 Do you recall being asked that question and giving that
2 answer?
3 **A.** I don't remember.
4 **Q.** Would looking at it refresh your recollection?
5 **A.** No.
6 **Q.** Is there anything that would refresh your recollection
7 with respect to your giving that testimony?
8 **A.** No.
9 **Q.** Are you saying that the transcript did not accurately
10 record your words?
11 **MR. GUERRERO:** Objection, asked and answered.
12 **THE COURT:** I'll allow him to clear it up.
13 **THE WITNESS:** Right now, to me, in my eyes, it's wrong.
14 Right now, what I'm hearing is wrong.
15 **BY MR. TABACKMAN:**
16 **Q.** What I'm asking you, sir: Are you saying that the
17 transcript does not accurately record the words that you said
18 during the Edelin trial?
19 **A.** I'm not saying that. I'm just saying right now what I'm
20 getting from you, I don't trust that. I don't believe that's
21 what I said.
22 **MR. TABACKMAN:** May we approach the bench, Your Honor?
23 **THE COURT:** Me? You want to approach me or him?
24 **MR. TABACKMAN:** You, Your Honor.
25 **THE COURT:** Yes.

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1 (Following sidebar discussion had on the record:)
2 **MR. TABACKMAN:** I sure don't know how I deal with that at
3 this point, that I -- what is his exact words? "I don't believe
4 that that's what it says." I mean, he's saying I'm not reading
5 it? I've changed what the transcript says? I'm not sure exactly
6 what --
7 **THE COURT:** I'll give you leeway to clear that up.
8 **MR. TABACKMAN:** I want to --
9 **THE COURT:** It isn't clear whether he's saying he doesn't
10 trust you or whether the transcript's inaccurate, but I'll let
11 you clear that up. You're right, it's not clear now. He
12 plainly -- I'll let you clear it up. I don't know.
13 Do you have a question or a request?
14 **MR. TABACKMAN:** Yeah, that I be allowed -- I just didn't
15 want to start getting into that area without clearing it with the
16 Court first.
17 **THE COURT:** All right.
18 (Sidebar discussion concluded.)
19 **MR. TABACKMAN:** May I approach the witness, Your Honor?
20 **THE COURT:** Yes.
21 **BY MR. TABACKMAN:**
22 **Q.** I would like you to take a look at page 14915 and if you
23 would read down the page to yourself silently.
24 **A.** (Complied.)
25 **THE COURT:** Does that have an exhibit number?

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1 **MR. TABACKMAN:** I'm sorry. I will do that.
2 Your Honor, we're going to use Wilson's Exhibit 32 L,
3 which is already marked on her exhibit list. I'll let Mr. Green
4 satisfy himself that these two documents have the same stuff here
5 on this location. This is another copy.
6 So the exhibit number, Your Honor, again is Wilson 32 L.
7 **BY MR. TABACKMAN:**
8 **Q.** Mr. Green, do you see on the page the words that I had
9 read to you?
10 **A.** Yes.
11 **Q.** The question and the answer?
12 **A.** Yes.
13 **Q.** Is it -- I'm just trying to clarify what your testimony
14 was before. Are you saying that the person who typed those
15 words got it wrong, that you didn't say them?
16 **A.** I'm just telling you -- I'm not saying that the person
17 who typed the words got it wrong. I'm --
18 **Q.** Okay.
19 **A.** -- just telling you that from me growing up, this man
20 grew up around Congress Park and I -- and his mother grew up
21 around Congress Park. All the guys that I hung with used to be
22 in his house, so it's like I said, he are Congress Park.
23 **Q.** Are you saying, sir, that your testimony in the Edelin
24 case on this point was inaccurate?
25 **A.** I probably -- I'm going to put it like this. Just say I

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1 did say that, right?
2 **Q.** No, I --
3 **A.** Just hear me out. Let's say if I did say that --
4 **Q.** Your Honor, I would ask --
5 **A.** -- and he don't hang around there no more --
6 **THE COURT:** Hold on one second. You have to make sure you
7 answer only the questions put to you.
8 **THE WITNESS:** All right.
9 **BY MR. TABACKMAN:**
10 **Q.** Are you saying that your testimony in the Edelin trial
11 was inaccurate, was wrong?
12 **A.** Yeah. But see, that's what I'm trying to say again.
13 **Q.** Thank you.
14 **A.** I feel it's wrong now, because --
15 **MR. MARTIN:** Objection, Your Honor.
16 **THE COURT:** Let him put another question.
17 **THE WITNESS:** All right.
18 **THE COURT:** You have to answer only what he's asking at
19 this point.
20 **BY MR. TABACKMAN:**
21 **Q.** You were trying to be truthful in the Edelin trial and
22 accurate; yes on no, sir?
23 **A.** It's not that I was trying to be truthful. What I'm
24 trying to tell you -- what I'm trying to say is, even though --
25 **MR. TABACKMAN:** Your Honor, I would ask that the witness

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1 be --

2 THE COURT: Hold on. Let him put another question.

3 BY MR. TABACKMAN:

4 Q. Were you trying to be accurate in the Edelin trial?

5 A. Naw.

6 Q. You were not?

7 A. Naw.

8 Q. Okay. You were under oath at the time; is that right?

9 A. Yes.

10 Q. Okay. And you're under oath today?

11 A. Yes.

12 Q. Okay. Now, you -- at the close -- excuse me.

13 MR. TABACKMAN: Your Honor, it's 11:15. I don't know if

14 the Court was going to take a break or not.

15 THE COURT: No.

16 MR. TABACKMAN: Okay, fine.

17 BY MR. TABACKMAN:

18 Q. At the close of your direct examination by Mr. Guerrero

19 last Thursday, he asked you if -- do you recall him asking you

20 what -- if you knew what "perjury" means?

21 A. Yes.

22 Q. Do you recall that?

23 A. Yes.

24 Q. And he asked you what it meant to you?

25 A. Yes.

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1 perjury charge; is that right?

2 A. Right.

3 Q. And then you also would have problems with the parole

4 board in addition, right?

5 A. Right.

6 Q. You probably wouldn't get the reduction that you were

7 looking for?

8 A. Right.

9 Q. And basically, your testimony to this jury was, "I'm not

10 going to do that. I'm not going to take that risk," right?

11 A. Right.

12 Q. But in fact, you have been faced with a similar situation

13 many times, haven't you, in your life?

14 A. With what?

15 Q. For example when you were incarcerated at Lorton, you

16 were awaiting your -- you were under a cooperation -- you were

17 under a cooperation agreement; isn't that right?

18 MR. GUERRERO: Objection, relevance.

19 THE WITNESS: In Lorton?

20 MR. TABACKMAN: Your Honor, if the Court wants a proffer,

21 I can give it.

22 THE COURT: It isn't about what I want. It's about what

23 you can do. Either you can give a nonspeaking answer to an

24 objection or you can't. If you can, give a nonspeaking answer to

25 the objection; if you can't, ask permission to approach.

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1 Q. Okay. And do you recall saying that if you were caught

2 lying under oath -- he asked you what would that expose you to

3 and do you recall that you said that you wouldn't -- you didn't

4 think your situation in front of the parole board would be a

5 real problem, correct?

6 A. Naw. It was more as -- it wasn't about the parole. It

7 was more as that if I lie, it's more as I can get more time

8 added with my parole time.

9 Q. I'm sorry. That's right. You said --

10 "And if you were caught lying under oath, what could that

11 expose you to?"

12 And you said: "Some more time."

13 And Mr. Guerrero asked you: "Some more time on top of

14 that? Of what?"

15 And you said: "My five years."

16 And you said you weren't willing to risk that; is that

17 right?

18 A. Correct.

19 Q. Okay. And so you said to -- and then you told the jury

20 that you weren't lying; isn't that right?

21 A. Right.

22 Q. Now, at various times -- the risk of perjury is the risk

23 of getting caught in a lie; isn't that right?

24 A. Right.

25 Q. And the risk is if you get caught lying, you could get a

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1 MR. TABACKMAN: I prefer to come up.

2 (Following sidebar discussion had on the record:)

3 MR. TABACKMAN: The nonspeaking answer is on a number of

4 occasion, on a number of occasions, very specifically both with

5 respect to when he was at Lorton and he smoked marijuana at the

6 jail -- I mean at Lorton, where he smoked marijuana at CTF --

7 there are a number of circumstances where, faced with potential

8 bad consequences from breaking the law or not telling the truth

9 and losing an opportunity, he nonetheless did that, because

10 the --

11 THE COURT: Did what?

12 MR. TABACKMAN: He nonetheless engaged in the unlawful

13 behavior. So the point being is that for him, it is not a

14 question of, you know, "Gee, I shouldn't lie because it's the

15 wrong thing to do," but that his calculation has always been,

16 will I get caught?

17 And I should be able to show that in this instance -- in

18 other words -- I'm not articulating it well.

19 My contention is that when the government asks the

20 question, "Well, I wouldn't lie because I'll get perjury; I'll

21 get a perjury charge." You only get a perjury charge if you get

22 caught, and that there are a variety -- there are a number of

23 instances in this witness's history that show he is in fact,

24 faced with exactly the same choice -- lying, for whatever reason,

25 and you know -- or doing something else that would jeopardize

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1 something good that he might get -- for the other witnesses, it
2 was a 5K; for him it's the parole letter he wants. He'll run the
3 risk of getting an additional five years, that he's engaged in
4 the kind of behavior where he says "Oh, I would never do that
5 because here's my risk," when -- and then in fact time after
6 time, he has done that. And we should be allowed to undercut
7 this bolstering testimony that the government was allowed to
8 elicit: "The consequences of my lying are so terrible for me, I
9 would never do that." And in fact, people do that all the time
10 and he's done that.

11 THE COURT: The question was: Did you have a cooperation
12 agreement while you were at Lorton? Tie that up --

13 MR. TABACKMAN: I will do that.

14 THE COURT: -- to me.

15 MR. TABACKMAN: While he was at Lorton -- and I have to go
16 back and look at my notes, because I have it laid out -- while he
17 was at Lorton, he was -- I think that was the point where he was
18 pending his testimony in the Edelin trial and he gets caught
19 using marijuana and selling marijuana at Lorton.

20 And there are other instances -- this is all from the
21 Edelin -- these are all things he's admitted having done. In
22 situation after situation -- I'm sorry -- my recollection is --
23 let me check my notes.

24 "When you were at CTF" -- this was a sexual relationship
25 with one of the people. "While at CTF, have you ever smoked

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1 marijuana?" It was at CTF rather than at Lorton. I was
2 confusing -- conflating two different instances.

3 "How often were you smoking marijuana?"

4 "One time. I wasn't smoking."

5 And then he talks about how he was selling marijuana. And
6 I have extensive notes on the questions. If the Court wants me
7 to get them, I'll lay them out.

8 THE COURT: It sounds like there's a difference between
9 "Would you do something bad" versus "Would you lie?" I'll let
10 you ask him about, you know, *Giglio* type behavior. But what does
11 that have to do with whether he's under a cooperation agreement
12 with respect to whether he's lying?

13 MR. TABACKMAN: What I'm trying to do is -- in the
14 situation where he stands to gain something and he's saying --
15 the testimony here is -- the thrust of the testimony on direct
16 is, "I have something to gain and, therefore, I wouldn't
17 jeopardize it by, you know, telling -- by telling a lie."

18 And in fact, you know, in many instances he does -- I'm
19 sorry, my mouth -- I take medication; my mouth is like a cotton
20 ball right now.

21 In many instances, this gentleman has engaged in behavior
22 that is precisely analogous to that, made exactly the kind of
23 choice, that he's telling this jury a lie, that he would never
24 make. "You can trust what I'm saying" because that would be
25 self-destructive to himself or something.

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1 MR. GUERRERO: Your Honor, I still don't see the
2 connection. What Mr. Tabackman wants to do is go into specific
3 instances of bad conduct to help make the point that this witness
4 should not be believed, that he's lying here under oath. And we
5 just don't see the connection, that he's tying it up close
6 enough.

7 THE COURT: Well, his argument is -- his argument is "I
8 wouldn't engage in behavior that would jeopardize the benefit I'm
9 hoping to get." He testified here, "I wouldn't lie because it
10 would jeopardize my ability to get a letter to the judge or to
11 the parole board."

12 The argument is that shouldn't be believed because when he
13 had a benefit that he's looking for in the cooperation while he
14 was at Lorton, he engaged in behavior that would have jeopardized
15 that benefit, too.

16 MR. GUERRERO: But I understand the Court's logic, and I
17 understand Mr. Tabackman's --

18 THE COURT: It's not mine. I'm just trying to repeat what
19 Mr. Tabackman said.

20 MR. GUERRERO: I understand what Mr. Tabackman is saying,
21 but he's talking apples and orange. It's prior bad conduct,
22 which he's trying to equate with lying under oath, which is a
23 situation that he has now before him -- under no cooperation
24 agreement where he -- he, Damien Green -- is only looking at four
25 and a half years of his own sentence; that he has no connection

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1 to the government. And lying at this point would compromise
2 serving not only his four-year sentence that he has remaining,
3 which is not tied to the government, but adding on top of that an
4 exposure of ten years.

5 It's a lot -- it's different from where Mr. Tabackman
6 wants to go. I can see how he's comparing them, but there is a
7 distinct difference.

8 MR. TABACKMAN: Your Honor, I'm --

9 THE COURT: I'm going to allow the examination with
10 respect to this witness's credibility and asserting that he
11 wouldn't lie here because it would be inconsistent with his being
12 able to get the benefit that he says he's looking for.

13 (Sidebar discussion concluded.)

14 BY MR. TABACKMAN:

15 Q. Mr. Green, do you recall smoking marijuana in the CTF
16 facility?

17 A. Yes.

18 Q. And did you distribute marijuana in the CTF facility?

19 A. Sometimes.

20 Q. And how many times did you do that?

21 A. Over 50.

22 Q. Pardon?

23 A. Over 50.

24 Q. Over 50 times you distributed marijuana in the Community
25 Treatment Facility?

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1 A. Right.
 2 Q. And you understood that that was a jail, right?
 3 A. Right.
 4 Q. And marijuana wasn't supposed to be in the jail; isn't
 5 that right?
 6 A. Right.
 7 Q. And you realize that you were breaking the law when you
 8 distributed marijuana in the jail over 50 times, right?
 9 A. Right.
 10 Q. And at the time that you did that, were you serving a
 11 sentence?
 12 A. I was serving the five to 15.
 13 Q. That was the sentence? And that five to 15 was in
 14 connection with what case?
 15 A. The Idaho case.
 16 Q. I'm sorry?
 17 A. The Idaho case.
 18 Q. That's the one with Mr. Clayton, where you shot him?
 19 A. Correct.
 20 Q. Right. And were you also pending a sentence in another
 21 case?
 22 A. Yes.
 23 Q. And that was -- was that the case that was in front of
 24 Judge Lamberth in this courthouse?
 25 A. Yes.

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1 Q. And that was the case where you pleaded guilty to RICO
 2 conspiracy?
 3 A. Yes.
 4 Q. Okay. And that was the case -- and that was for your
 5 involvement in the Edelin -- the One-Five mob, correct?
 6 A. Yes.
 7 Q. And you were looking at that time for a -- at the time
 8 that you were distributing the marijuana and smoking the
 9 marijuana, you were looking for a 5K Letter from the government;
 10 isn't that right?
 11 A. Yes.
 12 Q. And that was because you had been giving them cooperation
 13 in connection with the Edelin case, correct?
 14 A. Correct.
 15 Q. And in connection with the Gray case, correct?
 16 A. Naw --
 17 Q. Fine. But with respect to the Edelin case?
 18 A. Yes.
 19 Q. All right. And you understood that getting caught for
 20 marijuana in the jail could jeopardize that, right?
 21 A. Well, not really.
 22 Q. You didn't think that bringing marijuana into the CTF
 23 might jeopardize your 5K Letter?
 24 A. No.
 25 THE COURT: We've reached the mid-morning break point, but

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1 you can complete this line if you want.
 2 BY MR. TABACKMAN:
 3 Q. Did you think the government wouldn't care about the fact
 4 that you distributed marijuana into --
 5 MR. GUERRERO: Objection to what the government cares.
 6 BY MR. TABACKMAN:
 7 Q. Did you think --
 8 THE COURT: Finish your point.
 9 BY MR. TABACKMAN:
 10 Q. Did you think in your head that the government -- the
 11 prosecutors wouldn't care about the fact that you distributed
 12 marijuana over 50 times in the Community Treatment Facility?
 13 A. Naw. I knew they would care. I just didn't care.
 14 Q. So you were willing to jeopardize that 5K Letter in order
 15 to do that?
 16 A. It wasn't going to jeopardize it because at the time
 17 where I was at, you get caught with marijuana, the only thing
 18 would happen to you, you go to the hole for a month and then you
 19 come back.
 20 Q. And you didn't think it might jeopardize it with Judge
 21 Lamberth, that he would care?
 22 MR. GUERRERO: Objection as to speculation on the
 23 Judge's --
 24 THE COURT: Overruled.
 25 BY MR. TABACKMAN:

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1 Q. You can answer.
 2 A. I can't really talk for him.
 3 Q. I'm not asking you to.
 4 A. I can't say if he care or not. I don't know how he would
 5 react to that.
 6 Q. I'm asking what you thought. Or didn't you think about
 7 it one way or the other?
 8 A. Naw.
 9 Q. You didn't think about it?
 10 A. I never even thought about it with the judge.
 11 Q. But you thought about what the consequences of perjuring
 12 yourself would be in this case?
 13 A. Yes.
 14 MR. TABACKMAN: It's a good break point, Your Honor.
 15 THE COURT: All right, ladies and gentlemen. We'll take
 16 our mid-morning break. Please remember not to talk about the
 17 case and leave your notes in the jury room and come back in 15
 18 minutes. Enjoy your break.
 19 (Jury out at 11:31 a.m.)
 20 THE COURT: All right. We'll be back in 15 minutes.
 21 (Thereupon, a break was had from 11:32 a.m. until
 22 11:50 a.m.)
 23 THE COURT: Are you ready for the jury, Mr. Tabackman?
 24 MR. TABACKMAN: Yes, Your Honor. Thank you.
 25 (Jury in at 11:51 a.m.)

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1 THE COURT: Good morning, ladies and gentlemen.
 2 THE JURY PANEL: Good morning.
 3 THE COURT: Welcome back. We're ready to resume.
 4 MR. TABACKMAN: Thank you, Your Honor.
 5 THE COURT: Mr. Tabackman.
 6 BY MR. TABACKMAN:
 7 Q. When you were at CTF and distributing the marijuana, were
 8 there other witnesses, in connection with the cases that you
 9 testified, in there at CTF with you?
 10 A. Yes.
 11 Q. And did you distribute the marijuana to any of those
 12 people?
 13 MR. GUERRERO: Objection relevance.
 14 THE COURT: Sustained.
 15 BY MR. TABACKMAN:
 16 Q. To whom did you distribute the marijuana?
 17 MR. GUERRERO: Same objection.
 18 MR. TABACKMAN: I think it's relevant, Your Honor, if
 19 there were other witnesses in this case who smoked or received
 20 marijuana in CTF. I can limit it to that.
 21 THE COURT: That's been answered. Sustained.
 22 MR. TABACKMAN: I don't know that it's been answered, with
 23 respect to other witnesses in this case, Your Honor, I haven't
 24 asked that. I thought the Court had sustained the objection,
 25 because I asked for other cases, plural. I thought that's why

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1 the Court perhaps sustained the objection.
 2 THE COURT: Go ahead.
 3 BY MR. TABACKMAN:
 4 Q. Did you distribute it to other witnesses in this case?
 5 A. Uhm.
 6 Q. Persons who have testified in this case, that you know
 7 have testified in this case?
 8 A. In this case here?
 9 Q. Yes.
 10 A. Uhm, I probably gave some to Brad, Black, my cousin.
 11 Q. Who's your cousin?
 12 A. Mussy (sic).
 13 Q. What's his name?
 14 A. Thomas Simms.
 15 Q. How about to Bobby Capies or Munya?
 16 A. Who in.
 17 Q. Bobby Capies, Munya?
 18 A. Naw, they weren't there when I was there.
 19 Q. Was there anybody from Congress Park there that --
 20 A. Uhm, Drano, he was downstairs, but that was it. Oh,
 21 yeah, it was -- it was a tall dude named Slim over there, some
 22 tall dude. He used to hang with Cool Wop.
 23 Q. Larry Browne?
 24 A. I don't know if that's his real name. I know he's real
 25 tall. They call him Slim.

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1 Q. Do you recall that in connection with one of your
 2 sentences, you were in a -- supposed to be in a drug program?
 3 A. Yes.
 4 Q. And you had to give urines on a regular basis?
 5 A. Yes.
 6 Q. And was that monitored by Bond-O-Bonds?
 7 A. Yes.
 8 Q. And Bond-O-Bonds is a third-party custodian?
 9 A. Yes.
 10 Q. And what kind of case was that, that you were on release
 11 for?
 12 A. I don't remember. I don't know if -- I think either it
 13 was for possession of cocaine, possession of PCP, or either the
 14 gun charge. It was one of them. It was one of them.
 15 Q. Right. And you were supposed to go and give urines
 16 several times a week?
 17 A. Sometimes twice a week.
 18 Q. Right. And you were supposed to be in a drug program?
 19 A. Yes.
 20 Q. And in order to do those -- doing those things were to
 21 keep from you getting locked up, right?
 22 A. Yes.
 23 Q. Because you could get locked up if you didn't do what you
 24 were supposed to do when you were released?
 25 A. Yes.

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1 Q. And you didn't do what you were supposed to do, did you?
 2 A. No.
 3 Q. What did you do?
 4 A. I smoked.
 5 Q. What else did you do?
 6 A. I drink.
 7 Q. What else did you do?
 8 A. Sold drugs.
 9 Q. What else did you do?
 10 A. That's it.
 11 Q. Did you have Earl Edelin lie for you about having a job?
 12 A. Oh, yeah.
 13 Q. And you were jeopardizing something, your freedom,
 14 weren't you?
 15 A. Well, he had a community center, so that's what a lot of
 16 guys did when they got home. If they wanted to stay on the
 17 street, you just go to him and he'd sign a slip saying you have
 18 a job.
 19 Q. Which is a lie?
 20 A. Yeah.
 21 Q. And you were on drugs, so you ran the risk of it showing
 22 up in your urine?
 23 A. Yes, sir.
 24 Q. Did you give them phony urine?
 25 A. Well, you know, they have a lot of tricks to try to clean

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1 your urine, but sometimes it works, sometimes it don't.

2 **Q.** So, again, you were placing your freedom in jeopardy --

3 and possibly losing a benefit; isn't that right?

4 **A.** Yes.

5 **Q.** In exactly the same way that lying here could cost you a

6 benefit if you got caught, right?

7 **A.** Well, it's a little different.

8 **Q.** It's a little different?

9 **A.** I was younger then, plus I was on drugs, running the

10 streets. I ain't doing that now. I haven't been on drugs for

11 the last five years now, so --

12 **Q.** So you haven't continued smoking drugs while you've been

13 incarcerated?

14 **A.** Nope.

15 **Q.** Was the last time just before the Edelin trial?

16 **A.** The last time I had marijuana was 2000 -- probably the

17 end of 2001.

18 **Q.** Right. So that was even after the Edelin -- when you

19 testified in the Edelin trial?

20 **A.** Right, I guess right when it was over -- right before I

21 got sentenced. I got sentenced in 2002.

22 **Q.** Right. And you were counting on the fact that nobody

23 would hold that against you, that you had brought drugs into the

24 jail?

25 **A.** Well, it came a time that we had got drugs in the jail

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1 and somebody went downtown and told that we had drugs, and, you

2 know, the prosecutor, they said if we stopped -- if we don't

3 stop doing what we're doing, things going to happen, so we

4 stopped doing what we was doing.

5 **Q.** So they just looked the other way?

6 **MR. GUERRERO:** Objection, Your Honor.

7 **THE COURT:** Sustained.

8 **BY MR. TABACKMAN:**

9 **Q.** Did you use PCP in jail?

10 **A.** I think one time.

11 **Q.** Did you give PCP to other people in jail?

12 **A.** Naw.

13 **Q.** Did you use cocaine in jail?

14 **A.** Naw.

15 **Q.** Did you use heroin in jail?

16 **A.** I think I used heroin one time. And that was in Lorton.

17 **Q.** Right. How did you get it into Lorton?

18 **A.** Well, somebody else had it.

19 **Q.** Did you help distribute it to other people?

20 **A.** No.

21 **Q.** Did you distribute any of it at all?

22 **A.** No.

23 **Q.** Now, in the Edelin -- strike that.

24 What is lacing?

25 **A.** Lacing is you put cocaine on cigarettes, PCP, marijuana.

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1 That's how they smoke cocaine with --

2 **Q.** Did you do that?

3 **A.** -- they add it with something else like cigarettes,

4 marijuana.

5 **Q.** Did you do that?

6 **A.** Naw, I never done that.

7 **Q.** You never done that. Is that like a woody?

8 **A.** Yes.

9 **Q.** But you would mix your PCP with cigarettes; is that

10 right? That's how you would smoke it?

11 **MR. GUERRERO:** Objection, asked and answered.

12 **THE COURT:** I'll allow it.

13 **THE WITNESS:** Well, when you dip a cigarette into the

14 water, they call it Sherman. It's just the chemicals that's

15 soaking into the cigarette. Now, you have the boat, what they

16 call love boat, they take the water and soak it on the reefer so

17 it's a little different, but it's basically the same.

18 **BY MR. TABACKMAN:**

19 **Q.** Do you do both of those things?

20 **A.** I usually smoked boat, but sometimes I would smoke a

21 Sherman here and there.

22 **Q.** Boat more powerful?

23 **A.** Sherman more powerful.

24 **Q.** And what's a straight rush?

25 **A.** Straight rush, when you take a couple of pulls on

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1 something and it automatically hit you right there.

2 **Q.** And what's the effect on you when that happens?

3 **A.** You can get a lot of different effects. You can get one

4 that you can't see; one that you might get hot, want to take

5 your clothes off; one that you get angry; one that you get

6 funny, you want to be playful. It's a lot.

7 **Q.** Sometimes it make you paranoid?

8 **A.** It can make you paranoid.

9 **Q.** And you said you sometimes would see things that aren't

10 exactly accurate?

11 **A.** Oh, naw.

12 **Q.** You talked about --

13 **A.** It -- it never made me paranoid, it just made your vision

14 blurry.

15 **Q.** Give you a misperception of what's going on?

16 **A.** Naw, it's just -- if a person is standing in front of

17 you, it would be like they far back, but they right here in

18 front of you.

19 **MR. TABACKMAN:** Court's indulgence.

20 **BY MR. TABACKMAN:**

21 **Q.** Which of your charges did you have the opportunity --

22 were you going for the Youth Act on?

23 **A.** Say that again.

24 **Q.** Which of the charges that you've had, did you have an

25 opportunity for the Federal Youth Act?

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1 A. Oh, the 5 to 15.
 2 Q. Which case was that, which shooting?
 3 A. Attempted murder on Ida Clayton.
 4 Q. And in that case, you didn't get charged -- you used a
 5 gun to shoot him, right?
 6 A. Yes.
 7 Q. But you didn't get charged with while armed; isn't that
 8 right, you got charged with assault with intent to murder,
 9 right?
 10 A. Yes.
 11 Q. And that's 5 to 15?
 12 A. Yes.
 13 Q. And you knew that if you had gotten charged with an
 14 assault with intent to commit murder while armed, you could face
 15 a life sentence, right?
 16 A. No. I took a plea 2 to 15, Youth Act.
 17 Q. Okay. And then you went down for -- what is the Youth
 18 Act, as you understood it?
 19 MR. GUERRERO: Objection, relevance.
 20 THE COURT: I'll allow it.
 21 THE WITNESS: The Youth Act is 2 to 15. I go to Lorton
 22 prison with all the other youths. If I do 18 months clean, I can
 23 go home.
 24 BY MR. TABACKMAN:
 25 Q. And that was a benefit that you wanted; isn't that right?

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1 A. Yes.
 2 Q. And what did you do to try to get that benefit?
 3 A. They came and got me from Lorton. They took me to CTF,
 4 put me in the Youth Act block. They tested me, did a lot of
 5 tests on me. Sometimes they asked me and I lied on it and
 6 that's how it messed up my Youth Act study.
 7 Q. You lied because you thought that would improve your
 8 situation to get the Youth Act?
 9 A. Yeah and no -- you can say, yeah -- it was a yeah and no
 10 at that time.
 11 Q. I mean, you thought -- that's what you thought, that
 12 lying would get you in a better position?
 13 A. Well, I thought I already had that position, for one, but
 14 by me lying, it just messed it up for me, that's all.
 15 Q. But you were willing to lie to try to get less time in
 16 jail, right?
 17 A. It's like I say, I thought I already had that time,
 18 because I took a plea to it. See, when you take a plea to a
 19 certain time, you think you got that certain time.
 20 Q. But nevertheless, since you weren't sure, you tried to
 21 lie to make it certain; isn't that right?
 22 A. Correct.
 23 Q. And the purpose of telling a lie was to see if you could
 24 get less time?
 25 A. Correct.

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1 Q. But you wouldn't do that anymore?
 2 A. I don't see no sense in it.
 3 Q. You're just willing to -- well, in the *Edelin trial*, you
 4 didn't -- Mr. Ball wasn't the defendant, right?
 5 A. No.
 6 Q. And that's -- and isn't that why you didn't -- you
 7 thought you could -- you weren't -- strike that. But in this
 8 case, you know Mr. Ball is on trial; isn't that right?
 9 A. Correct.
 10 Q. And you know that you've been brought in here within the
 11 last couple weeks; isn't that right?
 12 A. Yes.
 13 Q. And you understand that the role is for you to help
 14 convict Mr. Ball; isn't that right?
 15 MR. GUERRERO: Objection, form.
 16 THE COURT: Sustained.
 17 BY MR. TABACKMAN:
 18 Q. In your mind, sir, isn't that why you have talked about
 19 these circumstances?
 20 MR. GUERRERO: Same objection.
 21 THE COURT: Sustained.
 22 BY MR. TABACKMAN:
 23 Q. Do you recall that in the *Edelin trial*, you talked a lot
 24 about the effects of PCP; is that right?
 25 A. Yes.

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1 Q. Do you remember that? Do you remember the lawyers were
 2 asking you questions about it?
 3 A. Yes.
 4 Q. And do you remember describing how sometimes if you get a
 5 straight rush, you can't see maybe for 20 or 30 minutes?
 6 A. Yes.
 7 Q. Is that the truth?
 8 A. Yeah, that's true.
 9 Q. And sometimes you'll have to sit down and stay there
 10 where your high can come down to a level, because once PCP gives
 11 you a straight rush, it's like you got to come down --
 12 MR. GUERRERO: Objection, Your Honor, to form.
 13 BY MR. TABACKMAN:
 14 Q. -- at least four or five levels?
 15 THE COURT: Hold on.
 16 MR. GUERRERO: Objection, form.
 17 MR. TABACKMAN: I'm asking -- I'm asking him if that's an
 18 accurate description of what PCP does.
 19 THE COURT: Sustained.
 20 BY MR. TABACKMAN:
 21 Q. Let me ask you -- let me read you -- does -- sometimes
 22 you have to sit down when you smoke PCP because you can't stand
 23 up and see what's around you?
 24 A. Well, when you get PCP, you don't know if it's good until
 25 you smoke it, so I mean, you can stand up and smoke it and then

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1 when you find out it's good, then you sit down.
 2 **Q.** All right. And then sometimes when you smoke PCP, you
 3 can get a rush and have the effect of PCP a day or two later
 4 when you smoke a cigarette, can't you?
 5 **A.** Well, the PCP gets -- it gets into your tissues, so you
 6 don't have to smoke PCP for seven months, and one day you can
 7 smoke a cigarette or drink a beer and get high all over.
 8 **Q.** But you've had the circumstance where you've smoked good
 9 PCP on one day and the next day smoked a cigarette and you're
 10 high all over again; isn't that right?
 11 **A.** Well, me, myself, it don't -- it didn't ever affect me
 12 that much, but it was guys that I knew that I hung around that
 13 was high for days and they didn't smoke none of it for days.
 14 **Q.** Well, when you were describing -- talking about the
 15 straight rush, that's something that happened to you, right?
 16 **A.** Well, when I say "straight rush," it's just more as I
 17 smoke some good PCP, it got me real high and that was it.
 18 **Q.** And you can stay high for a while off of that; isn't that
 19 right?
 20 MR. GUERRERO: Objection, relevance.
 21 THE COURT: Overruled.
 22 THE WITNESS: I'd say an hour. You'd probably stay high
 23 an hour, hour and a half.
 24 BY MR. TABACKMAN:
 25 **Q.** And you'd smoke it throughout the day; isn't that right?

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1 **A.** Yeah, throughout the day, I might smoke it no more than
 2 five times.
 3 **Q.** Some days you would go as high as ten packs a day?
 4 **A.** Well, I was selling it, so by me selling it, I was
 5 smoking it sometimes, too.
 6 **Q.** And that would keep you high all day long?
 7 **A.** Not all day. You don't want to be high off PCP all day.
 8 **Q.** Most of the day?
 9 **A.** Not even most of the day, because you're vulnerable, you
 10 put yourself in a position that you don't want to be in. So,
 11 you might smoke it at a good time, say, 6:00, 7:00, so in that
 12 time frame.
 13 **Q.** In the morning or in the evening?
 14 **A.** In the evening. So in that time frame, you're good for
 15 that time frame. After then, then you drink or whatever, but if
 16 you're in the house, then you can smoke all you want.
 17 **Q.** So, you would sometimes smoke in the morning in the house
 18 before you went out?
 19 **A.** No, I never smoked PCP in the morning.
 20 **Q.** Smoke it in the afternoon --
 21 **A.** Yes.
 22 **Q.** -- in order to get the feeling?
 23 **A.** Yes.
 24 **Q.** In order to get the -- and your perceptions would have
 25 the effect that you talked about; isn't that right?

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1 **A.** Yes. 14051
 2 **Q.** And you've been involved in some -- in a lot of
 3 circumstances where you were high on PCP; isn't that right,
 4 violent circumstances?
 5 **A.** Uh, I got in a couple of violent situations.
 6 **Q.** That time that you -- I believe in your direct testimony,
 7 do you recall saying that you saw 75 bullets?
 8 **A.** Say that again.
 9 **Q.** Do you remember -- did you testify on your direct
 10 testimony that there was a day -- you were describing some guns
 11 and you said you saw 75 bullets?
 12 **A.** I didn't saw them, but I heard them.
 13 **Q.** Were you on PCP that day?
 14 **A.** Naw, I don't think I was -- I might have -- me and
 15 Teeny Man was probably together, so most likely we probably was
 16 smoking.
 17 **Q.** The fact is, you can't say which days your perceptions
 18 were altered and which days they weren't, can you?
 19 **A.** See, that's the thing, when I'm on PCP, it's not that
 20 you're going to have me -- you're not going to have me walking
 21 all around the neighborhood everywhere. If I'm smoking PCP, I'm
 22 somewhere situated. I'm sitting somewhere where I feel
 23 comfortable, or I'm sitting in a car with somebody or I'm in
 24 somebody's house or on somebody's front porch. I'm not smoking
 25 it and just walking around. I did it before, walked around and

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1 smoked, but that wasn't an every day thing. That wasn't
 2 something that I do all the time. 14052
 3 **Q.** A couple days a week?
 4 **A.** I can't even say a couple days a week, because it's --
 5 **Q.** And you can't say -- I'm sorry, you can't say that it's
 6 not.
 7 **A.** The only way I say that because, every time I smoked PCP,
 8 I always go somewhere and sit down. I always get in a comfort
 9 zone. I never get in a place where I feel uncomfortable,
 10 because I know what the high do.
 11 **Q.** And when you were with Mr. Faison, you were generally in
 12 a comfortable place, weren't you?
 13 **A.** What, on Congress?
 14 **Q.** I'm talking about generally, with Mr. Faison was a
 15 comfortable place for you to be?
 16 **A.** Yes.
 17 **Q.** And you could drive a car on PCP; isn't that right?
 18 **A.** No.
 19 **Q.** You wouldn't drive a car on PCP, never did?
 20 **A.** I did, and I crashed, that's why I don't do it.
 21 **Q.** You walk around the neighborhood high on PCP?
 22 **A.** Nope.
 23 THE COURT: Mr. Tabackman, let me ask you to wrap up,
 24 please.
 25 MR. TABACKMAN: Pardon?

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1 THE COURT: Let me ask you to wrap up, please.
 2 MR. TABACKMAN: I am, Your Honor.
 3 BY MR. TABACKMAN:
 4 Q. And on the days -- the encounters you described with
 5 Mr. Ball, you weren't high on PCP?
 6 A. What, with JJ? No.
 7 Q. And when you saw Mr. Ball while you were at the rec
 8 center, you weren't high on PCP?
 9 A. No.
 10 Q. Except you can't say the dates that you saw Mr. Ball;
 11 isn't that right?
 12 A. The only way I say that is because I never smoke PCP
 13 around the center or in the center, and JJ don't smoke, he on a
 14 dialysis machine, so -- I wasn't never always smoking PCP by
 15 myself. I always had somebody with me. So them incidents I was
 16 with JJ, he didn't smoke it. I'm not going to smoke PCP with
 17 his daughter in the car. So, two, at the center, I'm not going
 18 to smoke because Tony don't allow that around the center.
 19 Q. Tony didn't allow drugs in the center?
 20 A. Well, he didn't allow smoking in the center or smoking
 21 around the center. As far as selling drugs, that was his thing.
 22 Q. So selling drugs in the center but didn't allow you and
 23 Squid to smoke drugs in the center?
 24 A. The only thing you could smoke was cigarettes.
 25 MR. TABACKMAN: I have no further questions.

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1 THE COURT: Mr. Martin.
 2 MR. MARTIN: Thank you, Your Honor.
 3 CROSS-EXAMINATION OF DAMIEN GREEN
 4 BY MR. MARTIN:
 5 Q. Well, good afternoon, sir.
 6 A. Good afternoon.
 7 Q. My name is Anthony Martin and I represent Joseph Jones.
 8 A. All right.
 9 Q. Now, I think when you started your testimony, you had
 10 mentioned there was a dispute between the people that you used
 11 to run with and some of the residents in Congress Park, right?
 12 A. Yes.
 13 Q. And you knew at that time that Mr. Jones lived in the
 14 Congress Park area, right?
 15 A. Uh, yeah, he -- I think his baby's mother lived around
 16 there, I think.
 17 Q. But you knew he frequented that area, correct?
 18 A. Yes.
 19 Q. So you identified him, in your mind, with Congress Park,
 20 right?
 21 A. Yes.
 22 Q. And moving on to this incident that -- well, strike that.
 23 Disregard that, I mean.
 24 And you also testified, I think, that you and Brad were
 25 friends, right?

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1 A. Yes.
 2 Q. And you and Bradley Carter would hang out together from
 3 time to time, right?
 4 A. Yes.
 5 Q. In fact, you would do that often, right?
 6 A. Yes.
 7 Q. And sometimes in hanging out, you guys would get high,
 8 too, right?
 9 A. Yes.
 10 Q. And that would be alcohol or whatever, correct?
 11 A. Yes.
 12 Q. Now, where exactly would you and Brad hang out?
 13 A. Uhm, sometimes we be in his back yard, like that's where
 14 everybody used to be, sitting on the wall. His house was right
 15 here (indicating), but there was a wall by his house, so
 16 everybody used to be right there.
 17 Q. And where did he live?
 18 A. He lived on Stanton Road.
 19 Q. And how far is that from the Congress Park area?
 20 A. A few blocks.
 21 Q. But it's not in the Congress Park area -- it's not in
 22 Congress Park, the neighborhood itself, right?
 23 A. No.
 24 Q. So you might know of people from Congress Park, you might
 25 be acquainted with their appearance, but you really don't know

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1 them; is that correct?
 2 A. Uhm, you had a lot of Congress Park guys that went to
 3 school with me. You had a few of them that come up to my
 4 neighborhood and hang with -- you know, hang with certain guys
 5 up there that was cool, and it's been like that for years.
 6 Q. Like -- go ahead, I'm sorry. Finish.
 7 A. Like Cool Wop and them. I went to school with them.
 8 They used to come up to the center. So it was like we knew each
 9 other, we hung around each other sometimes. It was like, we
 10 grew up with these guys. The guys that I testified on the
 11 Tommy *Edelin* case, I grew up with them, okay? I grew up around
 12 them, the Congress Park guys. When I say "I grew up around
 13 them," that means we go to the same store, we run into each
 14 other here and there, at the same liquor store or at the
 15 basketball court, but I never actually hung with them like that.
 16 Q. I understand. And the ones that you did know or the ones
 17 that you went to school with, those were ones who were closer to
 18 your age, correct?
 19 A. Yes.
 20 Q. And Mr. Jones wasn't close to your age, was he?
 21 A. No.
 22 Q. And you didn't go to school with him, right?
 23 A. No.
 24 Q. Now, Mr. Carter, is he closer to your age as well?
 25 A. Yeah.

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1 Q. All right. And so that as far as you know, Mr. Carter
2 also didn't go to school with Mr. Jones, right?
3 A. No.
4 Q. Do you know when Mr. Carter first became aware or
5 acquainted with Mr. Jones? If you know. It's either yes or no.
6 A. No.
7 Q. Okay. Do you know -- and I don't remember my question.
8 Did I ask you where or when last time?
9 A. Uh.
10 Q. Well, let me do it this way: Do you remember or do you
11 know when he first became acquainted with Mr. Jones?
12 A. The only first time I could say is the incident, the
13 incident, but other than that, I know he knew Jo-Jo.
14 Q. Okay. And you said you know he knew him, and when you
15 say he knew him, he didn't run with him, right?
16 A. No.
17 Q. All right. And he knew him from the neighborhood, right?
18 A. Yes.
19 Q. He didn't hang out with him, right?
20 A. No.
21 Q. Okay. Now, if I recall your testimony, on February 20th,
22 1994, specifically the night of the shooting, you guys were over
23 at Monkey Mark's house?
24 A. Yes.
25 Q. Okay. And at Monkey Mark's house, if I recall correctly,

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1 the following people were there: Yourself?
2 A. Yes.
3 Q. Maurice Willis?
4 A. No, he wasn't in there.
5 Q. He wasn't in there. Was Travis there?
6 A. No.
7 Q. Brian Edmonds, was he there?
8 A. No.
9 Q. Was Detective Oliver Garvey there?
10 A. No.
11 Q. Okay. There came a time, though, when Travis, Brian,
12 Maurice Willis and Brad went into a car, right?
13 A. Yes.
14 Q. Okay. How did you know that they went into the car?
15 A. Well, we was all -- we was outside already. Mark and
16 them had just went in the house, so Black and them pulled in the
17 alley. I already knew it was Black and them, because they had
18 been driving the car for a few days or whatever, and Brad was
19 coming out the house and he was going to the car. So I was
20 like, where y'all going, and he was like, we going to 51. So I
21 gave them some money to bring me some beer back.
22 Q. So you actually saw them go in the car, right?
23 A. Yes.
24 Q. And of the people I just mentioned, they all went in the
25 car, but you never saw Detective Oliver Garvey go in the car,

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1 right?
2 A. Naw.
3 Q. Okay. And as far as you know, Detective Oliver Garvey
4 wasn't waiting at 51 liquor for them, was he?
5 MR. GUERRERO: Objection, Your Honor.
6 THE COURT: Sustained.
7 BY MR. MARTIN:
8 Q. Well, you said you spoke to Bradley shortly after the
9 shooting happened. I think, as you described it, he ran back to
10 the house after the shooting, correct?
11 A. After the shooting, they went to the hospital and then he
12 ran back.
13 Q. Okay. And then he ran back.
14 And if I recall your testimony correctly, he came back
15 and he mentioned to you that there was some shooting, but he
16 didn't mention that Jo-Jo did any shooting, correct?
17 A. Naw.
18 Q. And with respect to his mentioning the shooting, when he
19 came back, he didn't mention Detective Oliver Garvey's name, did
20 he?
21 A. No.
22 Q. And this was on the night of the shooting itself,
23 correct?
24 A. Yes.
25 Q. Okay. Now, you also talked about an incident that

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1 happened over at the rec center. Do you remember that, sir?
2 A. Yes.
3 Q. And you said there was a shooting there as well. As I
4 recall, you said a car pulled up near the rec center, correct?
5 A. Correct.
6 Q. Now, again, tell the ladies and gentlemen of the jury
7 again, please, what kind of car was that?
8 A. It looked like a Pontiac. I think it was a rental car.
9 Q. You think it was a rental? Was it a new car?
10 A. It wasn't -- it wasn't brand-new, but it looked all
11 right.
12 Q. Okay. And what time of day did you see this car?
13 A. What time of day? It was daytime, but I don't know what
14 time it was.
15 Q. Okay. And as I understand your testimony, you said there
16 were five people in the car?
17 A. Yes, there was five.
18 Q. Okay. And you said that at some point some shooting
19 started, but you didn't see Mr. Jones do any shooting, right?
20 A. No.
21 Q. And this was in the summer of 1996, right?
22 A. Yes.
23 Q. Let me return to the incident on the night of 20 February
24 1994, for just a second.
25 That evening, you said you saw them as they were getting

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1 in the car, just before they went to the liquor store, right?

2 **A.** Yes.

3 **Q.** Do you remember whether -- well, again, disregard that.

4 Maurice Willis, where was he seated?

5 **A.** He was in the passenger side.

6 **Q.** Front passenger?

7 **A.** Yes.

8 **Q.** And Brian Edmonds, he was driving?

9 **A.** Yes.

10 **Q.** Travis Honesty was in the back?

11 **A.** Yes.

12 **Q.** And Brad Carter was in the back as well, right?

13 **A.** Yes.

14 **Q.** And that was a February evening. I think you said it was

15 kind of chilly that night?

16 **A.** Yeah.

17 **Q.** Do you remember whether -- and with respect to

18 Mr. Edmonds, is his nickname Black?

19 **A.** Yes.

20 **Q.** Now, do you remember what Mr. Edmonds was wearing?

21 **A.** Naw. At that time he was -- he used to wear a lot of

22 Polo stuff, at that time.

23 **Q.** He used to wear a lot of what?

24 **A.** Polo clothing.

25 **Q.** Polo clothing?

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1 **A.** Yeah.

2 **Q.** Do you recall whether or not Mr. Edmonds was wearing a

3 bulletproof vest that night?

4 **A.** I don't know. He might have.

5 **Q.** He might have? Why did you say he might have?

6 **A.** He got shot so many times, I mean, he needed it.

7 **Q.** Had you ever seen him with a bulletproof vest?

8 **A.** No.

9 **Q.** Do you know whether he had a Tec-9 on him that night?

10 **A.** I think he did have a Tec-9 on him. I think he did.

11 **Q.** What about Mr. Carter, Bradley Carter? Was he armed that

12 night?

13 **A.** I don't think so.

14 **Q.** You don't think so?

15 **A.** Naw.

16 **Q.** When he ran back to the house after coming back to the

17 hospital, do you know whether he had a weapon on him at that

18 time?

19 **A.** Naw, I don't think he had no weapon.

20 **Q.** You don't think so?

21 **MR. MARTIN:** Just a minute sir, just give me a second.

22 Court's indulgence.

23 (Discussion had off the record.)

24 **BY MR. MARTIN:**

25 **Q.** I may have misspoke and I don't want to you think I was

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1 trying to play games with you. Maurice Willis is Black,

2 correct, and Brian Edmonds is Pooh, right?

3 **A.** Correct.

4 **Q.** So I misspoke and I asked you the question earlier. So,

5 let me go back and rephrase that.

6 Since Brian Edmonds is Pooh, let's go back and make sure

7 we understand the same person.

8 Do you know whether Black wore a bulletproof vest that

9 night?

10 **A.** He might have.

11 **Q.** He might have. And your answer -- would your answers

12 change if I called the person Black as opposed to Brian Edmonds,

13 the answers you gave earlier?

14 **A.** Yes, because we're talking about Black.

15 **Q.** Okay. Well, then, let's talk about Black, now that we're

16 squared away on that, because I think I mixed up the street name

17 and the real name. Did Black have a Tec-9 on him that night?

18 **A.** He might have.

19 **Q.** He might have. And you said earlier and I don't want to

20 repeat the point too much, that you didn't or couldn't see

21 whether or not he was wearing a bulletproof vest, right?

22 **A.** Couldn't see.

23 **Q.** Okay. Thank you for your patience, Mr. Green. I may be

24 finished. I may be.

25 **MR. MARTIN:** I have nothing further, Your Honor.

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1 **THE COURT:** All right. Mr. Balarezo.

2 **MR. BALAREZO:** Yes, Your Honor. Thank you.

3 **CROSS-EXAMINATION OF DAMIEN GREEN**

4 **BY MR. BALAREZO:**

5 **Q.** Sir, I may have slept through a little bit of this, but

6 what are you serving time for right now?

7 **A.** Five to 15 for.

8 **Q.** For what, I said.

9 **A.** Attempted murder.

10 **Q.** And that was the attempted murder of the person who

11 turned out to be a police officer, right?

12 **A.** Naw.

13 **Q.** Which attempted murder was this?

14 **A.** You talking about Ira Clayton?

15 **Q.** Is that the one you're serving time for now?

16 **A.** Yes.

17 **Q.** Okay. And that's -- a judge in Superior Court saw fit to

18 sentence you to 5 to 15 years, right?

19 **A.** Yes.

20 **Q.** Okay. And how much time do you have left on that?

21 **MR. GUERRERO:** Objection, Your Honor, repetitive.

22 **THE COURT:** I'll allow it.

23 **THE WITNESS:** Five years.

24 **BY MR. BALAREZO:**

25 **Q.** You have five years left on that sentence?

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1 A. Yes.
 2 Q. And you also pled guilty to a RICO conspiracy in this
 3 courthouse, right?
 4 A. Yes.
 5 Q. And I believe you testified that you already served your
 6 time in that case?
 7 A. Yes.
 8 Q. I'm sorry?
 9 A. Yes.
 10 Q. And in that case, that RICO conspiracy, you -- when you
 11 pled guilty, you were facing up to life in prison; is that
 12 correct?
 13 A. Correct.
 14 Q. But based on your cooperation with these people, the
 15 government, and whatever else you did for him, you were
 16 sentenced to something significantly less than life; is that
 17 right?
 18 A. Correct.
 19 Q. In fact, you got eight years in that case?
 20 A. Correct.
 21 Q. And when you pled guilty, you did it because you were
 22 accepting responsibility; is that right?
 23 A. Yes.
 24 Q. You wanted to make amends for what you had done, right?
 25 A. Yes.

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1 Q. All your drug dealing out there, right?
 2 A. Yes.
 3 Q. Your violence?
 4 A. Yes.
 5 Q. And the acceptance -- well, excuse me, the responsibility
 6 that you accepted was for the RICO drug conspiracy, right?
 7 A. Yes.
 8 Q. Also for three assaults with intent to kill while armed?
 9 A. Yes.
 10 Q. Three attempted murders, in effect?
 11 A. Yes.
 12 Q. One of them involved those two cops that were in that car
 13 in an alley, correct?
 14 MR. GUERRERO: Objection, Your Honor, repetitive.
 15 THE COURT: Mr. Balarezo.
 16 MR. BALAREZO: Your Honor, I'm just trying to lay my
 17 foundation for the following questions.
 18 THE COURT: Sustained.
 19 BY MR. BALAREZO:
 20 Q. One of the -- anyway, the assault with intent to kill,
 21 the attempted murders that you pled to was for Ira Clayton,
 22 right?
 23 MR. GUERRERO: Same objection.
 24 THE COURT: Sustained.
 25 BY MR. BALAREZO:

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1 Q. And Ira Clayton, the reason you shot him was because you
 2 thought he was going to tell on you for shooting a cop, right?
 3 MR. GUERRERO: Same objection.
 4 THE COURT: Sustained.
 5 BY MR. BALAREZO:
 6 Q. Well, you shoot at two cops, Ira Clayton, Keith Archy,
 7 and Mark Barnes and you end up with eight years, right?
 8 MR. GUERRERO: Objection.
 9 THE COURT: Sustained.
 10 BY MR. BALAREZO:
 11 Q. And you are accepting responsibility today in front of
 12 this jury by testifying against these gentlemen, right?
 13 MR. GUERRERO: Objection.
 14 THE COURT: Sustained.
 15 BY MR. BALAREZO:
 16 Q. Is your testimony here today part of your accepting
 17 responsibility?
 18 A. Yes.
 19 Q. And when you initially pled guilty to that RICO count,
 20 you pled -- you agreed to testify against Tommy Edelin, right?
 21 A. Yes.
 22 Q. And he was one of your homeboys, right?
 23 A. I can't say he was one of my homeboys, but he was -- but
 24 he was a homie. He was older than me, so it wasn't like I grew
 25 up with him. I didn't hang with him.

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1 Q. Well, just a few minutes ago you said that the people
 2 from the Edelin Group, you grew up with those people.
 3 A. I grew up --
 4 Q. Did you say that?
 5 A. See, I grew up --
 6 Q. Did you say that?
 7 A. Yes.
 8 Q. Okay. Now you grew up with those people, they were your
 9 friends, right? Not all of them, but a lot of them were your
 10 friends?
 11 A. Yes.
 12 Q. These were the people that were out there selling your
 13 drugs and shooting people up with, right?
 14 A. Yes.
 15 Q. These were the people that you had some sort of loyalty
 16 to, at some point, right?
 17 A. Yes.
 18 Q. And of course, you had no problems going into a courtroom
 19 and pointing fingers at them, these people that you grew up
 20 with, that you had a loyalty to, right?
 21 MR. GUERRERO: Objection, repetitive.
 22 THE COURT: I'll allow it.
 23 THE WITNESS: Of course I had a problem with it.
 24 BY MR. BALAREZO:
 25 Q. But you did it, right?

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1 A. I had a problem with it, because some of the guys I
 2 testified on, I grew up with them.
 3 Q. All right. But that problem that you had did not keep
 4 you from doing that; is that right?
 5 A. Yeah, because I didn't want to do life.
 6 Q. You didn't want to do life, so you would do anything that
 7 you could to get out of that life sentence that you were facing?
 8 A. Yes.
 9 Q. Now these guys, the Congress Park people, I think you
 10 said you grew up around them?
 11 A. Yes.
 12 Q. So these weren't your homies. They weren't your
 13 homeboys. They weren't the people you hung out with every day,
 14 right?
 15 A. No, it was just more, I respect them, they respect me.
 16 Q. They -- all right. And these were also the guys that you
 17 claimed were beefing with your group, right?
 18 A. Yes.
 19 Q. So, I think it's clear that you would have less loyalty
 20 to these guys; is that correct, than you would to the Edelin
 21 group?
 22 A. Even though --
 23 Q. Is that correct or not?
 24 A. Correct.
 25 Q. Okay. So you have no problem sitting here testifying

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1 against these guys today?
 2 A. It's still a problem.
 3 Q. But it's not keeping from you doing it, right?
 4 A. Naw, but it's still a problem.
 5 Q. All right. Now, you've mentioned that you're here
 6 testifying about the truth.
 7 A. Yes.
 8 Q. Everything that you say is the truth?
 9 A. Yes.
 10 Q. And that's because if you lie on the stand, of course,
 11 you might get charged with perjury by these people here, right?
 12 A. Yes.
 13 Q. And you know -- you do know that they're the ones who
 14 would prosecute you for perjury if you were found to be lying,
 15 right?
 16 A. Yes.
 17 Q. And you also understand that the ones who would make a
 18 determination about whether you're lying or not are these guys,
 19 right?
 20 A. Yes.
 21 Q. And in your mind, do you believe that if you lied and it
 22 helped their case, do you really think they're going to charge
 23 you with perjury?
 24 MR. GUERRERO: Objection, form.
 25 THE COURT: Overruled.

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1 BY MR. BALAREZO:
 2 Q. That means you can answer.
 3 A. Say that again.
 4 Q. In your mind, if you lie and it helps them, do you really
 5 think they're going to charge you with perjury?
 6 MR. GUERRERO: Same objection, Your Honor.
 7 THE COURT: Overruled.
 8 THE WITNESS: Yes, they're going to charge me with
 9 perjury.
 10 BY MR. BALAREZO:
 11 Q. Just like they charged you for all the drug dealing you
 12 did inside the jail? Wait, they didn't charge you for that, did
 13 they?
 14 A. Naw.
 15 Q. All right. Just like they charged you for -- well, they
 16 didn't charge you, right? That's my point, I'll leave it at
 17 that.
 18 MR. GUERRERO: Objection, asked and answered.
 19 THE COURT: Sustained.
 20 BY MR. BALAREZO:
 21 Q. Now, the reason -- another reason you're testifying here
 22 is because you're also contrite about what you've done in the
 23 past, right?
 24 A. Say that -- explain that.
 25 Q. Well, you feel bad about what you've done in the past,

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1 right?
 2 A. Yes.
 3 Q. And you want to make amends to society, right?
 4 A. Yes.
 5 Q. You want to make up for what you've done?
 6 A. Yes.
 7 Q. So you're kind of doing your civic duty, testifying here
 8 today?
 9 A. Yes.
 10 Q. It has nothing to do with your desire to get rid of those
 11 five years you have hanging over your head, right?
 12 A. Yes, that has something to do with it, too.
 13 Q. Some of it or all of it?
 14 A. Naw, it doesn't have to be all of it, it could be some of
 15 it.
 16 Q. So that desire could taint what you say here in court,
 17 right?
 18 A. Say that again.
 19 Q. That desire could taint the things that you say here in
 20 court?
 21 A. I don't know what you mean by that.
 22 Q. By taint, you know, could cause you to shade the truth a
 23 little bit or cause you to spin a story a certain way to help
 24 them, because they're the ones that you want to help you get rid
 25 of those five years, right?

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1 A. I don't feel that I'm helping them, I'm helping me.
 2 Q. Well, you're helping you. You already accepted
 3 responsibility for you, for what you did. Why are you here?
 4 A. I'm helping me.
 5 Q. Helping you. You want to get rid of those five years?
 6 A. Yes.
 7 Q. And by helping you, you help them, right?
 8 A. I mean.
 9 Q. Excuse me, let me withdraw that.
 10 By helping them, you help yourself?
 11 MR. GUERRERO: Objection, Your Honor, speculation.
 12 THE COURT: Sustained, but you can rephrase.
 13 BY MR. BALAREZO:
 14 Q. Well, sir, did you not, on May 27th of this year, just
 15 two weeks ago, write a letter to Mr. Guerrero, the gentleman
 16 over there that keeps objecting to my questions, did you not
 17 write a letter to him?
 18 A. Yes.
 19 Q. And in that letter, did you not mention that you had some
 20 time and that you wanted something in exchange for your
 21 testimony?
 22 A. Yes.
 23 Q. And, in fact, you told him a sentence modification -- you
 24 know what a sentence modification is, right?
 25 A. Yes.

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1 Q. A reduction in time.
 2 A. Yes.
 3 Q. That a sentence modification seems to be the only way?
 4 MR. GUERRERO: Objection, Your Honor, leading.
 5 THE COURT: Beg your pardon?
 6 MR. GUERRERO: Form, Your Honor. May we approach?
 7 THE COURT: No. Overruled.
 8 BY MR. BALAREZO:
 9 Q. Did you not, in the letter you wrote Mr. Guerrero on the
 10 27th of May, less than two weeks ago, indicate, quote:
 11 "The sentence modification seems to be the only way I can
 12 be properly compensated for my cooperation?"
 13 A. Correct.
 14 Q. Right?
 15 A. Right.
 16 Q. So you're testifying here because you want compensation
 17 from them, right?
 18 A. Yes.
 19 Q. And that compensation would be for them -- them to
 20 somehow get your sentence reduced, right?
 21 A. Yes.
 22 Q. And although you accepted responsibility, another five
 23 years, you don't think that's time that you should be doing for
 24 three attempted murders and a drug conspiracy, or is that too
 25 much time for that?

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1 A. I mean --
 2 Q. Is that too much time for that?
 3 A. No, it's not.
 4 Q. So why are you trying to get a sentence modification,
 5 sir?
 6 A. Because if I have a chance for a door to be open for me,
 7 I'm going to take it.
 8 Q. And the door is snitching on these guys, right?
 9 MR. GUERRERO: Objection.
 10 THE COURT: Sustained.
 11 BY MR. BALAREZO:
 12 Q. That door is testifying against these guys, right?
 13 MR. GUERRERO: Objection, Your Honor.
 14 THE COURT: I'll allow it.
 15 THE WITNESS: Correct.
 16 BY MR. BALAREZO:
 17 Q. Now -- and you -- the reason you wrote that letter on May
 18 27th was because you know that they have the ability; they have
 19 the authority; they have the power to ask a judge to reduce your
 20 sentence; is that right?
 21 MR. GUERRERO: Objection, speculation.
 22 THE COURT: Sustained as to form. You can rephrase.
 23 BY MR. BALAREZO:
 24 Q. In your mind, you do know that they have the power, the
 25 ability and the authority to ask a judge to reduce your

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1 sentence; is that right?
 2 THE COURT: Sustained.
 3 MR. GUERRERO: Same objection.
 4 BY MR. BALAREZO:
 5 Q. Well, sir, in your mind, do you know whether or not they
 6 have the ability to ask a judge to reduce your sentence?
 7 A. Yes.
 8 Q. And do they have the authority to do that also, right?
 9 A. No, I can't say that.
 10 Q. Well, when you went for sentencing before Judge Lamberth,
 11 when you got those 8 years with the RICO conspiracy for the
 12 three attempted murders, they filed a 5K Letter for you, right,
 13 or 5K motion, correct?
 14 A. Correct.
 15 Q. And they told the judge about all the good things you'd
 16 done, right?
 17 A. Correct.
 18 Q. Nowhere in that letter did they mention about the drug
 19 dealing you did in that jail, correct?
 20 A. That came up.
 21 Q. Was it in the letter? That's what I'm asking you.
 22 A. No, it's not in the letter.
 23 Q. But now you remember that came up somehow?
 24 A. That came up at trial.
 25 Q. I'm talking about at sentencing, sir, not at trial.

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1 A. No, it didn't come up at sentencing.
 2 Q. And although you were facing that life sentence, you got
 3 eight years, right?
 4 A. Yes.
 5 Q. So you know that if they write a little letter, that your
 6 time can come way down, right, you're aware of that?
 7 A. It can.
 8 MR. GUERRERO: Objection to form.
 9 THE COURT: Sustained.
 10 BY MR. BALAREZO:
 11 Q. Now you also mentioned some incident back -- I think it
 12 was 1995, where you claim you saw some weapon that was being
 13 used by Mr. Wilson. Do you remember that?
 14 A. By Mr. Who?
 15 Q. Wilson, Wop.
 16 A. Yes.
 17 Q. And I think on direct examination, you were asked if you
 18 saw a weapon and you said you had, right?
 19 A. Yeah.
 20 Q. But then you said you never actually saw it, but it
 21 looked like a weapon.
 22 A. You talking about Congress Place, when he stuck his hands
 23 in his pocket.
 24 Q. Right. Right, you remember?
 25 A. Right.

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1 Q. You never saw a gun, did you?
 2 A. No, he never pulled it out.
 3 Q. And you said, because he stuck his hand in his pocket,
 4 you could tell it was a gun, right?
 5 A. Correct.
 6 Q. And did you wear glasses back then?
 7 A. No.
 8 Q. And are those glasses or are they like attitude glasses?
 9 A. They're reading glasses.
 10 Q. Can you see me clearly?
 11 A. Yes.
 12 Q. What am I holding in my hand right now?
 13 A. I don't know what you're holding in your hand.
 14 Q. Let me stand closer.
 15 A. I don't know.
 16 Q. You can't tell, right?
 17 MR. TABACKMAN: I have nothing further.
 18 THE COURT: Mr. Zucker.
 19 CROSS-EXAMINATION OF DAMIEN GREEN
 20 BY MR. ZUCKER:
 21 Q. Good afternoon, sir. I'll be very brief. I want to
 22 return to something that came up in your conversation with
 23 Mr. Tabackman here.
 24 Do you recall talking about a time that you took a plea
 25 and thought you had a Youth Act?

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1 A. Yes.
 2 Q. And what do you mean by you thought you had a Youth Act,
 3 you thought it was guaranteed that you would get it?
 4 A. Because my lawyer came to me and said he got a plea
 5 bargain for me.
 6 Q. Okay.
 7 A. He said 2 to 15, Youth Act.
 8 Q. Okay. Just explain to the jury what that means.
 9 A. A 2 to 15 Youth Act means the judge give you the 2 to 15
 10 Youth Act, but I didn't know you had to go for a Youth Act
 11 study.
 12 Q. Let me make sure, break it down slightly. The 2 to 15
 13 means you have to do a mandatory 2, but no more than 15, right?
 14 A. Eighteen months you can go home, clean conduct.
 15 Q. If you get the Youth Act?
 16 A. Yes.
 17 Q. Okay. And the Youth Act is a way to get away from the
 18 two years, right?
 19 MR. GUERRERO: Objection, Your Honor, repetitive.
 20 THE WITNESS: No, the Youth Act.
 21 THE COURT: Hold on. When there's an objection, I have to
 22 rule on it.
 23 Sustained.
 24 You can go ahead.
 25 BY MR. ZUCKER:

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1 Q. I guess the focus I want to get to is this. You didn't
 2 get the Youth Act, did you?
 3 A. No.
 4 Q. Now, when you went for the plea, you were asked a series
 5 of questions from the judge, as with every plea you've ever
 6 taken, right?
 7 A. Yes.
 8 Q. And one of the questions the judge asked you was, you
 9 understand -- and I'm going to paraphrase -- you understand that
 10 the sentence is going to be imposed by me, the judge? Have any
 11 promises been made to you about what sentence I'm going to
 12 impose, right? Or questions along those lines?
 13 A. I don't remember.
 14 Q. All right. You don't remember telling the judge, as part
 15 of the plea colloquy -- plea colloquy is just a conversation
 16 when your plea goes in -- that nothing has been represented to
 17 you about what sentence the judge was going to impose.
 18 Do you remember him or her asking those questions?
 19 A. Naw.
 20 Q. All right. But you did have an expectation, based on
 21 conversations between your lawyer and the prosecutor, you were
 22 going to get a favorable sentence, i.e., Youth Act, right?
 23 A. Yes.
 24 Q. Even though that wasn't anything said by the judge, nor
 25 said in front of the judge, right?

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1 A. Right.
 2 Q. Actually, was that with Judge Burgess in Superior Court?
 3 A. Yes.
 4 Q. And that was on November 13th, 1996?
 5 A. Yes.
 6 Q. Okay. Court's indulgence. You do not recall
 7 conversations about the judge asking you about whether or not
 8 any promises have been made to you about what sentence --
 9 MR. GUERRERO: Objection, Your Honor.
 10 BY MR. ZUCKER:
 11 Q. -- he would impose?
 12 THE COURT: Sustained.
 13 MR. ZUCKER: I'm sorry, Judge, may we approach, then?
 14 THE COURT: Approach about what?
 15 MR. ZUCKER: I -- I don't want to argue in front of the
 16 jury. I'm unsure of the ruling.
 17 THE COURT: I sustained the objection. You can put
 18 another question.
 19 BY MR. ZUCKER:
 20 Q. On November 13th -- you recall it was November 13th, 1996
 21 when you pled in front of Judge Burgess?
 22 A. Yes.
 23 Q. Okay. And do you recall whether or not the judge had --
 24 in the colloquy you had with the judge, him asking you whether
 25 or not any promises had been made about the granting of the

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1 youth study?
 2 A. No, I don't remember.
 3 Q. Would it refresh your recollection to look at a copy of
 4 that transcript of what was said to you by the judge and what
 5 you answered that day?
 6 A. I still don't remember.
 7 Q. I'm asking you, if you saw a copy of the transcript --
 8 A. Even if I see it, I still won't remember. If that
 9 happened, I won't remember.
 10 Q. So you're saying, even if you saw a copy of what he said
 11 to you and what you said on that day, you still wouldn't recall
 12 what he said?
 13 A. The only way I say that is because my lawyer handled all
 14 that when I went to court.
 15 Q. I understand that.
 16 A. I don't remember what the judge said to me.
 17 Q. And even if you looked at a copy of what a court reporter
 18 wrote down that the judge said, and a copy of what your answers
 19 are, you're telling us you still wouldn't recall, having looked
 20 at it?
 21 THE WITNESS: Naw.
 22 MR. GUERRERO: Objection, asked and answered.
 23 THE COURT: I'll allow it. Go ahead.
 24 BY MR. ZUCKER:
 25 Q. Is that what your sworn testimony was in front of the

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1 jury?
 2 A. I just don't remember, I mean --
 3 Q. I know you said you don't remember now. What I'm asking
 4 now is a different question. What I'm asking now is: If you
 5 looked at a copy of a court reporter's transcript --
 6 A. Right.
 7 Q. -- of what the judge said and what you answered, would it
 8 refresh your recollection? And you're telling me, no, that
 9 still wouldn't -- you know anything about refreshing
 10 recollection?
 11 A. Even if --
 12 MR. GUERRERO: Objection, Your Honor.
 13 BY MR. ZUCKER:
 14 Q. That still would not refresh your recollection?
 15 THE COURT: He answered the question. Move on.
 16 BY MR. ZUCKER:
 17 Q. You're not trying to avoid answering questions here, are
 18 you?
 19 A. Naw.
 20 Q. You just don't trust that the court reporter would have
 21 accurately taken it down?
 22 A. Naw, it's just that even if I read it, I'm still saying
 23 that I don't remember. If I don't remember, I can't tell you I
 24 would remember. You want me to say it just to say I remember,
 25 when I don't.

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1 Q. What I asked you -- well, I don't want to argue with you,
 2 but what I want to ask you is: If you looked at what a court
 3 reporter had written down that day, both what you said and what
 4 the judge said, you're saying you still wouldn't remember it?
 5 MR. GUERRERO: Objection, Your Honor.
 6 THE COURT: Sustained.
 7 MR. ZUCKER: No other questions of this witness. Thank
 8 you.
 9 THE COURT: Ms. Wicks.
 10 MS. WICKS: Thank you, Your Honor.
 11 May we approach, Your Honor?
 12 THE COURT: Yes.
 13 (Following sidebar discussion had on the record:)
 14 MS. WICKS: Your Honor, I thought I was going last. I can
 15 start now, but --
 16 THE COURT: You know, blame Mr. Beane, because he switched
 17 positions.
 18 MS. WICKS: Okay, that's fine. I can start.
 19 (Juror stepped out of the courtroom.)
 20 (Sidebar discussion concluded.)
 21 MS. WICKS: Court's indulgence.
 22 CROSS-EXAMINATION OF DAMIEN GREEN
 23 BY MS. WICKS:
 24 Q. Good afternoon, Mr. Green.
 25 THE COURT: Hold on. Hold on. Hold on.

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1 MS. WICKS: Sorry.
 2 (Juror returned to the courtroom.)
 3 MS. WICKS: Thank you, Your Honor. Good afternoon,
 4 Mr. Green.
 5 THE WITNESS: Good afternoon.
 6 BY MS. WICKS:
 7 Q. Now cooperation, which is something -- you started
 8 cooperating in what year, '98?
 9 A. Yes.
 10 Q. And cooperation with the government is something where
 11 the government promises you something, right?
 12 A. No, they can't promise you nothing.
 13 Q. Well, when you testified last week, you testified under
 14 oath that cooperation is something that the government promises
 15 you, correct?
 16 A. Naw.
 17 Q. That's not what you testified to last week? Is that what
 18 you testified to last week?
 19 A. Naw, I know they can't promise you nothing.
 20 Q. Last week you were asked the following question by the
 21 government and you gave the following answer:
 22 "Question: Do you know what a cooperation agreement is?"
 23 "Answer: It's something that you promise me."
 24 That's what you said last week, right?
 25 A. I might have did say that, but I know they can't promise

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1 you nothing.
 2 Q. So was that the truth or was that a lie what you said
 3 last week?
 4 A. I don't know. I don't know if it's true or a lie. I
 5 know they can't promise you nothing. I know that's the truth.
 6 Q. Well, under oath last week, you said a cooperation
 7 agreement is what you -- meaning the government, who is asking
 8 you the question, promises me, meaning Damien Green, right?
 9 A. I can't give you no response on that one.
 10 Q. Well, that's -- well, do you recall that question last
 11 week?
 12 A. Naw.
 13 Q. So you don't recall being questioned by the government,
 14 that very question, just four or five days ago, correct?
 15 A. No, that's what I said, I said they promised me
 16 something?
 17 Q. Yeah, that's what it said in the transcript.
 18 A. That was wrong.
 19 Q. The court reporter got it wrong or your answer was wrong?
 20 A. Either both.
 21 Q. And today you'd give a different answer to that very
 22 question, right?
 23 A. Yes.
 24 Q. Okay. So I'm going to ask you the same question today:
 25 Do you know what a cooperation agreement is?

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1 A. Uh, yes.
 2 Q. Okay. What's a cooperation agreement?
 3 A. Uhm, you agree to testify for the prosecutor, and if you
 4 testify, they're going to help you some type of way in your plea
 5 agreement.
 6 Q. And that's not what you said last week, right?
 7 A. Nope.
 8 Q. And sitting here today, in your mind -- well, you've been
 9 in jail since you were locked up in September '96, right?
 10 A. Yes.
 11 Q. And because of everything that you've done for the
 12 government, you think you've been in jail too long, right?
 13 A. No, I don't think I've been in jail too long.
 14 Q. You're willing to do more to get out, right?
 15 A. Even if I have to do this five years, it don't make a
 16 difference. I still done a lot of time. It don't really make
 17 a -- I still feel that I served my time.
 18 Q. Well, the reason why you called Detective Gus and
 19 initiated contact with him is because you wanted to get out of
 20 jail, right?
 21 A. Nope.
 22 MS. WICKS: Court's indulgence.
 23 BY MS. WICKS:
 24 Q. Well, you testified last week that you called your agent,
 25 right?

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1 A. Yes.
 2 Q. And the reason that you called your agent is because you
 3 had gotten a hit from the parole board, right?
 4 A. No. I called my agent for something else. It was
 5 something that was going on with me. I ain't talked to my agent
 6 in years, so I called him for something that was going on with
 7 me. I didn't even know these brothers got locked up.
 8 Q. And it just happened, as a result of you calling your
 9 agent, that now you're testifying for the government, right?
 10 A. Yes.
 11 MS. WICKS: Court's indulgence.
 12 BY MS. WICKS:
 13 Q. Now, last week when Mr. Tabackman started asking you
 14 questions, you indicated that you've taken -- you've taken
 15 accountability for the murders you've done, right?
 16 A. Attempted murders.
 17 MR. GUERRERO: Objection, Your Honor, misstates the
 18 evidence.
 19 THE COURT: Sustained.
 20 MS. WICKS: May we approach, Your Honor?
 21 THE COURT: Yes.
 22 (Following sidebar discussion had on the record:)
 23 MS. WICKS: Your Honor, that's actually exactly what he
 24 was asked and what he answered yes to.
 25 MR. GUERRERO: Where?

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1 MS. WICKS: First on page 13844, the question is:
2 "Right. Because that's part of the accountability that
3 you've had for the murders you've done."
4 There's an objection. The Court said overruled, and the
5 witness said: "That's not like this."

6 And he goes on to say, "It's not like that?"
7 "Answer: Naw."
8 Question -- Mr. Guerrero said: "You've taken
9 accountability and then you said yes for the murder you've done?"

10 "Answer: Right."

11 THE COURT: Your first line you read to me had the word
12 "that" in it with no context. I don't know what the context is.

13 MS. WICKS: I'm sorry. Right before that, he's talking
14 about...

15 MR. GUERRERO: Your Honor, if I can just interject here, I
16 can speed this up. I know exactly what the transcript says. And
17 I objected then, when Mr. Tabackman asked it, and I'm still
18 objecting now. When Mr. Tabackman asked that, we approached the
19 bench and we went into a colloquy over what the PSI report had
20 about whether or not Mr. Tabackman was misstating attempted
21 murders for murders and we went into that interchange. And there
22 wasn't any murders at all that this person was pleading guilty to
23 as part of the RICO. They are AWIKs or assault with intent to
24 kill or murder.

25 MS. WICKS: Your Honor, that's absolutely not what's in

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1 the transcript. In the transcript he goes on to continue
2 questioning him, and at that point there's no approach about
3 what's in the PSI. The Court allowed him to answer the question,
4 I'm merely following up on what murders is he talking about,
5 because he pled guilty to attempted murders.

6 MR. GUERRERO: Right, Your Honor, and there is a colloquy.
7 If Ms. Wicks keeps on flipping those pages, there is a colloquy,
8 that I remember, where we came up here to the bench to address
9 this very same issue, and Mr. Tabackman was informing the Court
10 that they had just gotten this PSI report, and Your Honor was
11 asking Mr. Tabackman to search through the PSI report to see
12 exactly where it was that he had pled guilty to murders, versus
13 attempted murders, and there was nothing in there.

14 MS. WICKS: And that's a completely different part of the
15 cross-examination. That's a completely different part of the
16 cross-examination. No one approached after this question and
17 that's what the witness indicated, he had taken accountability.

18 MR. CARNEY: Your Honor, I'm looking at Page 13845 of this
19 trial transcript, where I specifically say on line 9:
20 "Objection, Your Honor, misstates the record."

21 THE COURT: And the Court said: "I'll allow it."

22 MR. GUERRERO: Right.

23 MS. WICKS: And he answered the questions.

24 THE COURT: One at a time.

25 MR. GUERRERO: And we repeatedly came back on this same

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1 issue to address whether or not Mr. Tabackman was misreading the
2 information that he had.

3 MS. WICKS: That's another portion.

4 THE COURT: Wait a minute.

5 MR. GUERRERO: The fact is, under this particular plea
6 that he pled guilty to in his RICO conspiracy case, he did not
7 plead guilty to any murders. He pled guilty to three assault
8 with intent to murders, and Mr. Tabackman was under the
9 impression that in one of those cases, the officer was shot and
10 killed, and I specifically remember coming up here and talking
11 with Mr. Tabackman to the Court so that we could clarify that.
12 And we did clarify that in the record, that there wasn't any
13 murders and that's what I was objecting to then, that
14 Mr. Tabackman was using the word "murders" instead of attempted
15 murders.

16 THE COURT: Did somebody die?

17 MS. WICKS: No, but the witness answered under oath that
18 he's taking accountability for the murders he's done.

19 THE COURT: That's not his language. He answered right to
20 a question that was phrased, perhaps --

21 MS. WICKS: He's actually --

22 THE COURT: Excuse me. The question added the word murder
23 in there. I know it says "Right," but my question is: What --
24 did somebody die? Was there a murder?

25 MS. WICKS: No, that's what I'm asking about. I know

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1 that's not what he pled guilty to, but this is what he was
2 testifying to under oath last week.

3 THE COURT: So your question is: "Are you here
4 testifying, taking accountability for the murders you committed?"

5 MS. WICKS: I'm asking -- I'm trying to clarify his
6 testimony from last week. If in his mind he thinks there are
7 murders that he's taken responsibility for, that's what I'm
8 trying to clarify. I don't know why he answered that way.

9 THE COURT: I'll allow you to ask him, "Did you commit any
10 murders," to clarify them. If he says no, then you're going to
11 have to move on.

12 MS. WICKS: Okay.

13 (Sidebar discussion concluded.)

14 BY MS. WICKS:

15 **Q.** Mr. Green, did you commit any murders? Have you ever
16 committed any murders?

17 **A.** No.

18 **Q.** So, when Mr. Tabackman was asking you about -- during the
19 first part of your cross-examination by Mr. Tabackman last week,
20 when you were asked about the accountability you had for the
21 murders, you were thinking the attempted murders, correct?

22 **A.** Correct.

23 **Q.** And there were three separate instances where you tried
24 to kill people that you pled guilty to in the *Edelin* matter,
25 right?

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1 A. Yes.
 2 Q. But there are approximately 10 to 15 times where you shot
 3 people trying to kill them, right?
 4 A. Naw. No.
 5 Q. How many times did you try to shoot people to kill them?
 6 A. Well, shooting at a person and they shooting at you, it's
 7 a little different, but I never shot nobody and get charged for
 8 it.
 9 Q. So the only times you initiated shooting somebody are the
 10 times you were charged for in the *Edelin* matter?
 11 A. Well, I shot at other people before, but they never got
 12 hit. You said got hit.
 13 Q. As far as you know, they weren't hit, correct?
 14 A. Yes.
 15 Q. You didn't stick around to find out, did you?
 16 A. We would have known.
 17 Q. Well, you would have known? You thought that Ira Clayton
 18 was dead, right?
 19 A. Yeah, but I knew he was shot, too.
 20 Q. Right. You knew he was shot and you thought he was dead,
 21 right?
 22 A. Yeah.
 23 Q. And when you saw him and he was alive, then you found out
 24 he wasn't dead, right?
 25 A. Yes.

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1 Q. And were there people that you shot at that you never saw
 2 again, right?
 3 A. Yes.
 4 Q. So you don't know whether they're dead or alive, correct?
 5 A. No, it's not like I'm just coming to your neighborhoods
 6 and just shooting at you. It's -- if I'm beefing with somebody,
 7 I'm going to see them again. If I shot him, I'm going to know
 8 that I shot him. It's going to be known that he got a bullet.
 9 Q. Okay. I thought a couple questions ago, you just
 10 indicated that there were people that you shot that you never
 11 saw again, correct?
 12 A. Yeah, and that was Idaho, the one I'm being charged for.
 13 I didn't see him no more.
 14 Q. You didn't see him again after you shot him?
 15 A. I saw him after -- like a couple days after I shot him.
 16 I'm talking about as far as the years now, I haven't seen him no
 17 more.
 18 Q. About two weeks after you shot him, trying to kill him,
 19 you were locked up, right?
 20 A. I got locked up in -- I think that same month after I
 21 shot him.
 22 Q. Well, you got locked up September 5th, 1996, correct?
 23 A. Correct.
 24 Q. And you shot him in August, '96, correct?
 25 A. Okay.

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1 MS. WICKS: Court's indulgence. Well, I don't think
 2 you've answered my question.
 3 BY MS. WICKS:
 4 Q. My question is: How many people did you shoot to kill?
 5 A. I shot at a lot of people, but the people that I shot at,
 6 they never got hit.
 7 Q. They never got hit?
 8 A. Naw.
 9 Q. The police officers were hit, right?
 10 A. Yes.
 11 Q. Ira Clayton was hit, right?
 12 A. The ones that I was charged with.
 13 Q. Mark Barnes wasn't hit?
 14 A. I wasn't charged by that.
 15 Q. He wasn't hit by you, to your knowledge, correct --
 16 A. I still was charged with that, because --
 17 Q. I understand. My question is: Do you know if you hit
 18 him?
 19 A. I never shot my gun.
 20 Q. How many people were you all shooting at that night?
 21 A. About six.
 22 Q. Well, last week when you testified maybe 10 or 15 people
 23 that you tried to kill using a firearm; is that a fair
 24 assessment or could it be more than that?
 25 A. Uh, when I say that it's more, it's say five or six of us

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1 going to another neighborhood that we're beefing with --
 2 Q. Mr. Green --
 3 A. When I say 10 to 15, I'm trying to just give you what I'm
 4 saying, because I see that when I say something, you are taking
 5 it and putting it over here. I'm trying to tell you that when I
 6 go to shoot somebody, it's the guys that we're beefing with. So
 7 if it's five of them sitting in the car, we're going to shoot at
 8 them in the car. We're not shooting at nobody else but them.
 9 So you can count that five. And then when we come back
 10 and shoot again, two of them who was in that five might be with
 11 these three now, so now you can count that five, even though
 12 we're counting the two left from this five over here.
 13 Q. Okay. Let's do it this way. How many different times
 14 did you, yourself, go with a gun to try to kill somebody?
 15 A. Maybe ten times.
 16 Q. And of those ten times, there are three times that you
 17 were charged in the *Edelin* case, right?
 18 A. Yes.
 19 Q. And there are seven times -- approximately seven times
 20 that you weren't charged with in that case, right?
 21 A. Yes.
 22 Q. And you talked to the police about those seven times,
 23 right?
 24 A. Yes.
 25 Q. And in those seven times, how many total people do you

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1 recall being out there that you were trying to kill?

2 **A.** Awe, man, no more than ten, maybe six, seven.

3 **Q.** And last week, I believe your testimony was: There was

4 one time when you went looking for my client, Wop, also known as

5 Mr. Wilson, to try to get him, right?

6 **A.** Correct.

7 **Q.** That was your testimony last week, correct?

8 **A.** Correct.

9 **Q.** When you testified -- and that was the incident when you

10 were in the taxicab, right?

11 **A.** Yes.

12 **Q.** And when you testified in the *Edelin* case, you didn't

13 talk about Cool Wop related to that incident, correct?

14 **A.** Naw, I think it was just more that we just rode around

15 there in a cab.

16 **Q.** Okay. And your testimony in the *Edelin* case was that you

17 rode around there looking for Tweety, right?

18 **A.** Yeah.

19 **Q.** And in -- that was in relationship to questioning about

20 the beef with Stanton Terrace, right?

21 **A.** Yes.

22 **Q.** And the beef -- I think you testified even earlier this

23 morning, that central to your testimony in the *Edelin* case was

24 your testimony about having problems with people that lived on

25 Stanton Terrace, right?

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1 **A.** Yes.

2 **Q.** Okay.

3 MS. WICKS: Court's indulgence. Your Honor, I'm asking

4 the government to bring up 103.1.

5 (Juror stepped out of the courtroom.)

6 MS. WICKS: Okay. And --

7 THE COURT: You need to wait a moment.

8 (Juror returned to the courtroom.)

9 THE COURT: Ms. Wicks, we're only about ten minutes away

10 from the lunch break, did you want to break now?

11 MS. WICKS: That's fine, Your Honor.

12 THE COURT: Why don't we go ahead and take our lunch break

13 now. Please come back at 2:20. Enjoy your lunch break. Leave

14 your notebooks back in the jury room, and we'll see you back in

15 an hour and 15 minutes.

16 (Jury out at 1:04 p.m.)

17 THE COURT: All right. We'll see you back at 2:20.

18 MR. ZUCKER: Your Honor, there is an issue Mr. Guerrero

19 and I both want to address with the Court before Mr. Ewing

20 testifies, or at least before the cross-examination of Mr. Ewing,

21 who is the next witness, and we'll raise it whenever it's

22 convenient for you.

23 (Thereupon, a luncheon recess was had beginning at

24 1:05 p.m.)

25

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CERTIFICATE

1

2 I, Scott L. Wallace, RDR-CRR, certify that the

3 foregoing is a correct transcript from the record of proceedings

4 in the above-entitled matter.

Scott L. Wallace, RDR, CRR
Official Court Reporter

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EXHIBITS

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :

Plaintiff :

v. :

Washington, DC :

ANTWUAN BALL, :

DAVID WILSON, :

GREGORY BELL, :

DESMOND THURSTON, :

JOSEPH JONES, :

DOMINIC SAMUELS, :

Defendants :

2:20 p.m. :

. :

VOLUME 61 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS,
UNITED STATES DISTRICT JUDGE, and a jury

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Proceedings reported by machine shorthand, transcript produced
by computer-aided transcription.

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JOHN EWING

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EXHIBITS

NUMBER	ADMITTED
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(NO EXHIBITS MOVED INTO EVIDENCE.)

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PROCEEDINGS

1 MR. ZUCKER: I guess -- I can, and I'm even not sure
2 what we're asking of the Court, in all candor.

3 This is the situation: I understand that Mr. Ewing has
4 made representations that he has been threatened, and suspects
5 that -- threatened, and that his mother's car was shot up,
6 suspects that it might be connected with this case.

7 I asked Mr. Guerrero for -- whether there was any
8 confirmation that any of those events occurred, and I guess what
9 I was forming it as, is a Brady request, because I anticipated
10 that they had not.

11 He advises me that in fact I am wrong, as is frequently
12 the case, that they have reason to believe that the mother's car
13 was shot up, but there's no independent corroboration of the
14 threats.

15 And I guess the question is -- I'm not even sure what
16 the question is, in all candor, you know, because I don't want
17 to step afoul...

18 I don't want to open up any land mines, but if there is
19 anything there that I could use to my client's advantage,
20 because there were misrepresentations made and the government is
21 aware of it, then I want the disclosure of that. I guess that's
22 the best way to frame it.

23 THE COURT: Give me that again.

24 MR. ZUCKER: Sure. My suspicion is that it was an
25

2 (Pages 14102 to 14105)

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<p>1 excuse used to -- when confronted with his failure to appear, 2 and so I guess I'm looking for confirmation of that. And 3 Mr. Guerrero has advised me that he doesn't think that is the 4 case. 5 THE COURT: He doesn't think what is the case? 6 MR. ZUCKER: That these were fabrications used to 7 explain the failure to comply with the subpoena. So I guess we 8 just wanted to frame the issue, raise it with the Court. 9 I've asked him to -- he's advised me he is continuing 10 to look into it, and will make disclosures. Is that a fair 11 assessment? 12 MR. GUERRERO: Your Honor, we have -- 13 THE COURT: Can I call you Mr. Balarezo again? 14 MR. GUERRERO: That's fine, Your Honor. 15 THE COURT: Sorry, go ahead. This is Mr. Guerrero, 16 just for the record. 17 MR. GUERRERO: There are two incidents that we talked 18 about with respect to Mr. Ewing. One is a threat, the other is 19 a shooting. We raised those issues under seal. We're not going 20 to go into the details of those shootings, of those two 21 incidents. We're still looking into them. 22 We do have a good faith basis to believe that the 23 shooting of the car, the van, did happen. There's no reason for 24 us to disbelieve that that didn't happen, based on our research 25 thus far.</p>	<p>1 Are you ready for the jury? 2 MS. WICKS: I'm ready, Your Honor. But I need a 3 witness. 4 (Jury in at 2:24 p.m.) 5 THE COURT: Good afternoon, ladies and gentlemen. 6 THE JURY: Good afternoon. (Singing). 7 THE COURT: That's music to my ears. 8 Welcome back, and we're ready to resume. 9 Ms. Wicks? 10 MS. WICKS: Thank you, Your Honor. 11 CONTINUED CROSS-EXAMINATION 12 BY MS. WICKS: 13 Q. Mr. Green, I'm having you look at Government's 103.1 that is 14 in evidence, that shows Stanton Terrace. And if you could 15 just -- that's in the upper right-hand corner of the photograph 16 that's displayed to you right now. Do you see that? 17 A. Yes. 18 Q. And that's the Stanton Terrace. That's the area that you 19 testified about in the Edelin case. Right? 20 A. Yes. 21 Q. And then in that area that's marked Stanton Terrace on this 22 photograph, that's the area that you went to kill Mark Barnes. 23 Right? 24 A. Yes. 25 Q. And to shoot other people. Right?</p>
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<p>1 We're still working on confirming or getting 2 independent corroboration about this other threat. We're not 3 there yet, but we're working on it. 4 So at this point we have no reason to disbelieve John 5 Ewing, and there's nothing to disclose, because in his mind he 6 thinks that they're connected to this case. 7 Now, I've instructed him that until we confirm that, 8 that he's not to talk about that in his direct testimony. I'm 9 not going to go there. And I alerted Mr. Zucker, and I guess I 10 placed the rest of defense counsel on notice, that if they go 11 there, to be careful for what the answer might be. Because, 12 although I've instructed him I'm not going to go there and not 13 to go there as well, you can never tell what might happen during 14 cross-examination in a heated exchange. So... 15 THE COURT: Anything else? 16 MR. ZUCKER: I don't think there's really anything 17 else. 18 THE COURT: I guess you've made a record. There's 19 nothing for me to do at the moment about it. But we'll see what 20 happens. 21 MR. BALAREZO: Your Honor, just so we're clear, 22 Mr. Guerrero has hair and I'm the good-looking one. 23 MS. WICKS: Objection. 24 THE COURT: I'm glad I'm not on the stand, though. I 25 could have been cross-examined pretty effectively.</p>	<p>1 A. Yes. 2 Q. And specifically back in '96, on several occasions you were 3 involved in incidents going to Stanton Terrace and trying to 4 kill people. Right? 5 A. Yes. 6 Q. And that was -- the bulk of your testimony in the Edelin 7 case was about those instances. Right? 8 A. Yes. 9 Q. And when you testified last week about -- 10 MS. WICKS: Court's indulgence. 11 BY MS. WICKS: 12 Q. Well, actually, were you involved -- you were involved in an 13 incident where Tweety's brother Spook was killed? 14 A. No, I wasn't involved with it, but... 15 Q. Well, your involvement with that incident was, you knew a 16 person named Murph had gotten shot when Spook was killed. 17 Right? 18 A. Yes. 19 MR. GUERRERO: Objection. Beyond the scope. 20 MS. WICKS: I have a reason. I can approach. May we 21 approach, Your Honor? 22 THE COURT: Yes. 23 (BENCH CONFERENCE ON THE RECORD.) 24 MS. WICKS: The reason I'm going into it is because 25 Murph was a witness to that shooting, and his involvement in</p>

3 (Pages 14106 to 14109)

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1 that incident is, he specifically approached Murph to get him
2 not to talk to the police, in an effort to get him not to talk
3 to the police. And that's why I'm going into it.

4 I think it's a prior bad act that I should be entitled
5 to go into.

6 MR. GUERRERO: I think it's still beyond the scope,
7 Your Honor. I didn't go into that. I know the incident she's
8 talking about, but I think that's well beyond the scope of
9 direct examination.

10 THE COURT: Why isn't it legitimate bad act inquiry? I
11 mean, the guy is trying to suborn perjury, I guess is what
12 you're saying.

13 MS. WICKS: I think it's more along the lines of --

14 THE COURT: Obstructing justice?

15 MS. WICKS: -- to obstruct justice, yes.

16 MR. GUERRERO: I defer to the Court.

17 THE COURT: I'll allow it.

18 (END BENCH CONFERENCE.)

19 BY MS. WICKS:

20 Q. Mr. Green, you approached -- let me just step back.

21 Spook was the individual that was killed in May of '96.
22 Right?

23 A. Yes.

24 Q. And that's Tweety's brother. Correct?

25 A. Yes.

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1 Q. And Murph was a person that got shot when Spook got killed.
2 Right?

3 A. Yes.

4 Q. And you approached Murph to talk to him so that he wouldn't
5 talk to the police. Right?

6 A. Yes.

7 Q. And if you thought that he was going to tell, you would have
8 killed him. Right?

9 A. No, I wouldn't have killed him.

10 MS. WICKS: Court's indulgence.

11 BY MS. WICKS:

12 Q. Well, you thought Idaho was going to tell. Right?

13 A. Yes.

14 Q. And that's why you tried to kill him. Right?

15 A. Yes.

16 Q. When you talked to Murph, he told you that when the police
17 talked to him, he told them he couldn't see the shooters.
18 Right?

19 MR. GUERRERO: Objection. Calls for hearsay.

20 MS. WICKS: It goes to his state of mind, Your Honor.

21 THE COURT: I'll allow it. I'm sorry.

22 A. Yes.

23 THE COURT: Sustained.

24 BY MS. WICKS:

25 Q. When --

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1 MS. WICKS: Court's indulgence.

2 BY MS. WICKS:

3 Q. And the incident where -- well, you shot at a car thinking
4 that it was individuals from Stanton Terrace. Right? In June
5 of '96?

6 A. Yes.

7 Q. And it turned out that those were the police officers that
8 you shot at. Right?

9 A. Yes.

10 Q. After that, June 19th, '96 is the incident where Mark Barnes
11 gets shot at. Right?

12 A. Yes.

13 Q. And it's after that incident that -- and essentially, all of
14 those incidences that I just asked you questions about that

15 occurred in '96 were stemming from the problems that you were
16 having with dudes from Stanton Terrace. Right?

17 A. Yes.

18 Q. And Stanton Terrace, as indicated on the map, is on the
19 other side of Stanton Road from 15th Place and Congress Place
20 where you used to hang out. Right?

21 A. Yes.

22 Q. So it's essentially one block away, on the other side of
23 Turner School. Right?

24 A. Yes.

25 Q. And back in '96 -- you were arrested on June 20th, '96 for a

Page 14113

1 gun that the police found in your grandmother's house. Right?

2 A. Yes.

3 Q. And the drugs that they found in the house. Right?

4 A. Yes.

5 Q. And --

6 MS. WICKS: Court's indulgence.

7 BY MS. WICKS:

8 Q. And actually, when you -- the 5 to 15 that you got from
9 Judge Burgess is run concurrent with the time that you got for
10 the gun -- you pled guilty to the gun found in your
11 grandmother's house. Right?

12 A. Yes.

13 Q. And you got a year for that. Right?

14 A. Naw, I think it was just 100 days.

15 Q. I'm sorry. You got 100 days to run concurrent with your
16 other sentence. Right?

17 A. Yes.

18 Q. And that was the incident that arose when you were arrested
19 on June 20th of '96 in your grandmother's house. Right?

20 A. Yes.

21 Q. So you were released -- prior to being arrested in that
22 case, you had been arrested in the PCP and marijuana case in
23 February of '96. Right?

24 A. Yes.

25 Q. And when you were released in that case, you promised not to

4 (Pages 14110 to 14113)

Page 14114

1 break the law. Correct?

2 A. I promised? Who I promise to?

3 Q. The judge.

4 A. I don't remember promising the judge that.

5 Q. You don't remember promising the judge?

6 MS. WICKS: Court's indulgence.

7 May I approach the witness, Your Honor?

8 THE COURT: Yes.

9 MS. WICKS: I'm showing him 32-E.

10 BY MS. WICKS:

11 Q. Mr. Green, I'm showing you 32-E, which is the United States

12 versus Damien A. Green. Right?

13 A. Yes.

14 Q. Okay. And specifically looking at this court order from the

15 Superior Court, it's dated February 14th, '96. Do you see that

16 here at the bottom of the page?

17 A. Yes.

18 Q. And there's a signature here. That's your signature, Damien

19 Green?

20 A. Yes.

21 Q. And this is a release order where you're released on

22 conditions. Do you see that at the top of the page?

23 A. Yes.

24 Q. And specifically, "You are to refrain from committing any

25 criminal offenses, the penalties of which are explained on the

Page 14115

1 reverse side of this order."

2 That's what it says on the order. Right?

3 A. Yes.

4 Q. And that's actually checked off. Right?

5 A. Right.

6 Q. And you signed here, saying that you "understood the

7 penalties which may be imposed on me for willful failure to

8 appear or for violation of any condition of release."

9 That's what it says there. Right?

10 A. Right. So that lets you know somebody helped me, because at

11 that time I couldn't read.

12 Q. Okay. Well, you signed the order. Right?

13 A. Right.

14 Q. And it's your testimony that someone helped you to

15 understand what the order said. Right?

16 A. Right.

17 Q. And when you were released, you kept on selling drugs.

18 Right?

19 A. Right.

20 Q. And you were involved in these shooting instances in 1996.

21 Right?

22 A. Right.

23 Q. And then you were arrested again in June of '96, and you

24 made that same promise again. Right?

25 A. Right.

Page 14116

1 Q. And you kept doing what you were doing back then. Right?

2 A. Right.

3 Q. The incident that you talked about last week -- and I

4 believe your testimony was, you observed a shooting at

5 15th Place -- I'm sorry, at where Congress Place intersects with

6 Stanton Road. Right?

7 A. Yes.

8 Q. And that incident, you said Marcia was out there?

9 A. Yes.

10 Q. And Marcia is Chanté's sister. Right?

11 A. Yes.

12 Q. And they're both Marcia and Chanté Morris. Right?

13 A. Yes.

14 Q. And when you saw Wop coming up to that neighborhood in the

15 years prior to you being arrested, he came to see Chanté.

16 Right?

17 A. Sometimes he would come and see Chanté. Sometimes he would

18 come up there for Truck's sisters, Martha and Michelle. They

19 live in the same court.

20 Q. Okay. Well, your testimony last week was, you saw them

21 coming up there to holler at the dudes. Right?

22 A. I mean, if he come up there to holler at the dudes --

23 Q. Mr. Green, I'm asking you about your testimony last week.

24 Your testimony last week --

25 A. Yes. Yes.

Page 14117

1 Q. Okay. You also saw him, he would come and visit Chanté.

2 Right?

3 A. Yes.

4 Q. You also saw him, and he would come up there and visit the

5 Brooks family. Right?

6 A. Who is the Brooks family?

7 Q. Martha and Michelle Brooks.

8 A. All right. Yeah.

9 Q. And can you show the ladies and gentlemen --

10 MS. WICKS: May I approach the witness and give him a

11 pen, Your Honor?

12 THE COURT: Yes.

13 BY MS. WICKS:

14 Q. If you could mark on 103.1 where the Morris family residence

15 was.

16 A. (Witness complies.)

17 Q. And is that arrow right at the building that is the Morris?

18 A. It's right here (indicating.)

19 Q. Can you just clear and try to put the mark right where the

20 building is?

21 A. (Witness complies.)

22 Q. And is the arrow pointing at the building?

23 A. Yes.

24 Q. And if you could also mark where the Brooks family residence

25 was.

5 (Pages 14114 to 14117)

Page 14118

1 A. (Witness complies.)
 2 Q. Are you meaning to point at the same building or a different
 3 building?
 4 A. Naw, it's like a U. The Brooks' house is on the side.
 5 Chanté and them houses is facing the court. It's like this
 6 (indicating).
 7 Q. Okay.
 8 A. They live in the same court. It's like a U.
 9 Q. I understand. I'm just trying to look where -- okay.
 10 Essentially, on Congress Place, between 15th Place and
 11 Stanton Road, are both of the buildings that the Morris family
 12 lived in and the Brooks family. Right?
 13 A. Yes.
 14 Q. And they're right in that block where in 1996 you said you
 15 observed JJ, Squid, and Sabrina getting into a vehicle. Right?
 16 A. Yes.
 17 Q. And Marcia Morris was one of the people that was out there
 18 that night?
 19 A. Yes.
 20 Q. And she was out there with you. I mean, in the area where
 21 you were. Right?
 22 A. She was sitting like on her porch. Wah-Luck was sitting out
 23 there with her boyfriend.
 24 Q. That was her boyfriend at the time? Or you're saying there
 25 was another individual that was her boyfriend?

Page 14119

1 A. Naw. Marcia and Wah-Luck was going together then.
 2 Q. Okay. And are they on a porch where you are?
 3 A. No, they sitting on Marcia porch.
 4 Q. Okay. And is Marcia's porch back from the street or up at
 5 the street?
 6 A. It's back from the street.
 7 Q. Okay. From Marcia's porch, can you see the intersection of
 8 Stanton Road and Congress Place?
 9 A. No.
 10 Q. Where were you standing when you observed JJ's car making
 11 that left turn?
 12 A. I was standing like --
 13 Q. If you could mark on the map. Why don't you do that?
 14 A. (Witness complies.) Right in front of the court.
 15 Q. Okay. So almost on the sidewalk?
 16 A. Naw -- well, you could say that. Because it's the sidewalk,
 17 and then you got the stairs, and then you got like a little wall
 18 with like a tree that you could sit on the wall.
 19 So if you sit on the wall, it's like you in front of
 20 the court. So you got the stairs and then the sidewalk. You
 21 can either sit on the stairs, or you can sit on the --
 22 Q. My question is, where were you sitting?
 23 A. I was standing like in front of, like, where the stairs at.
 24 Q. And this incident that you're testifying about, did this --
 25 this occurred after the police ran up in your house and got that

Page 14120

1 gun. Right?
 2 A. Yeah, this is about that time they took my gun, I think.
 3 Q. I'm not asking if it's about the time. I'm asking, did it
 4 occur --
 5 A. I'm trying to think --
 6 Q. Let me finish my question. Did it occur before or after the
 7 police took your gun that day?
 8 A. This was after. This was after.
 9 Q. Okay. And --
 10 MS. WICKS: Court's indulgence.
 11 BY MS. WICKS:
 12 Q. The two individuals that you observed, if you could show on
 13 the map now which cut it is that you're saying they were
 14 standing in front of when you observed them.
 15 A. Okay. This where the cut -- okay. Hold on, let me see.
 16 Tweety was in this cut. Hold up. Tweety was in this cut, and
 17 Spook was in this cut, okay, and Cool Wop was in this cut right
 18 here (indicating) and...
 19 Q. And that's where they were when they were shooting at the
 20 car at the corner of Congress Place and Stanton Road?
 21 A. Oh. Naw, I'm talking about something else.
 22 Q. That's what I'm asking about, Mr. Green. What you testified
 23 last week --
 24 MS. WICKS: Court's indulgence.
 25 A. They was in this cut right here --

Page 14121

1 THE COURT: Hold on a second. Let her put her
 2 question.
 3 BY MS. WICKS:
 4 Q. The incident that you talked about last week, where you
 5 observed two people standing in front of a cut, can you point
 6 out to the ladies and gentlemen which cut?
 7 A. (Witness complies.)
 8 Q. And are you pointing to the area essentially in the
 9 photograph above the end of Turner School?
 10 A. Yes.
 11 Q. And just to the right of the arrow -- right now there's an
 12 arrow partially covering the C -- I'm sorry, the S in "Stanton
 13 Road"?
 14 A. Right. Right at the tip of the arrow, there's a cut right
 15 there.
 16 Q. Let me ask the question. The two buildings that are just to
 17 the right of that arrow as you look at the photograph, that
 18 whole set of buildings there is Turner Elementary School.
 19 Right?
 20 A. Yes.
 21 Q. And you're saying that the cut that they came out of was
 22 essentially the area just past the school on the top -- in the
 23 photograph, on the top of Turner School. Right?
 24 A. Yes, it's -- yeah, it's...
 25 Q. And there's an area in the photograph that almost looks like

6 (Pages 14118 to 14121)

Page 14122

1 there's a shadow?
 2 A. Yes.
 3 Q. So if you could just point to that shadow area.
 4 A. (Witness complies.)
 5 Q. Okay. So you're saying on essentially that far side of the
 6 school is where you saw the two people standing in the cut?
 7 A. Yes.
 8 Q. And I think your testimony last week was, during this
 9 incident, the first thing that you heard or saw was actually
 10 hearing gunshots. Right?
 11 A. Right.
 12 Q. And when you looked up you saw the two individuals standing
 13 in front of the cut. Right?
 14 A. Well, when I heard the shots and I looked up there by -- the
 15 car was making a left at the same time, so you could see two
 16 people, but you can't see their whole body because the car is
 17 still blocking them. But you could see two people.
 18 Q. You could see the heads?
 19 A. Yeah, you could see the heads. You could see the fire from
 20 the gun.
 21 Q. So when you first see them, they're not in the cut. They're
 22 almost on the sidewalk of the street there. Right?
 23 A. Yeah.
 24 MS. WICKS: Court's indulgence.
 25 BY MS. WICKS:

Page 14123

1 Q. But before you see them, you hear gunshots. Right?
 2 A. Yes.
 3 Q. And --
 4 MS. WICKS: Court's indulgence.
 5 BY MS. WICKS:
 6 Q. Do you recall how many shots you heard that night?
 7 A. Let me see. I don't know. It was a lot, maybe 10, 15. It
 8 was up there.
 9 Q. And as you're standing there observing that -- well, even
 10 after -- the car that you're watching leaves and goes down
 11 Stanton Road. Right?
 12 A. Yes.
 13 Q. And at that point you don't know if anyone is hit. Right?
 14 A. Yes.
 15 Q. You didn't call the police. Right?
 16 A. Right.
 17 Q. You called your cousin to get your gun. Right?
 18 A. To get me a gun.
 19 Q. To get you a gun, I'm sorry. Because the police had
 20 actually just taken your gun. Right?
 21 A. Yes.
 22 Q. And was that the .38 that they took out of your house, that
 23 was your gun?
 24 A. No, they took a 380 out my house. I think it was the 38 --
 25 it was a .38 or a .32 they took from out of Man car, the gun

Page 14124

1 that I lost before that.
 2 Q. And that was back in February. Right?
 3 A. I don't know when I got caught with it.
 4 Q. The 380 that they took out of your grandmother's house, that
 5 was not the gun that you used to shoot the police. Right?
 6 A. No.
 7 Q. That was a different gun?
 8 A. Yes.
 9 Q. And what kind of gun was that?
 10 A. That was a 380 that I had -- the gun that I shot the police
 11 with was a nine-millimeter.
 12 Q. And when you said you called your cousin, do you mean the
 13 same cousin that you were talking about this morning that was
 14 also look locked up with you over at CTF?
 15 A. Yes.
 16 Q. And his name again?
 17 A. Thomas Sims.
 18 Q. And his nickname?
 19 A. Mussy.
 20 Q. And prior to hearing the gunshots -- I'm sorry, withdraw
 21 that.
 22 During the time that you're watching the two
 23 individuals, they're both standing. Right?
 24 A. Yes.
 25 Q. And you knew -- you had just seen JJ get in that car?

Page 14125

1 A. Yes.
 2 Q. And so he would be in a position to either hear the gunshots
 3 or to see what happened. Right?
 4 MR. GUERRERO: Objection. Speculation.
 5 THE COURT: Sustained.
 6 BY MS. WICKS:
 7 Q. Now going back, you testified last week about an incident.
 8 I think you testified you think it was in '93, in 1993, when you
 9 were playing basketball in the summer months?
 10 A. Yes.
 11 Q. Okay. When was the first time that you told the police
 12 about this incident that you say happened in 1993?
 13 A. I told Steve Pfleger that, the prosecutor.
 14 Q. So way back in 1998 and '99 and 2000 and 2001, when you're
 15 dealing with Mr. Pfleger, you told them about this incident
 16 involving Wop from 1993?
 17 A. Yes.
 18 Q. And it's -- well, you don't recall -- sitting here last
 19 week, your testimony was, you couldn't recall who was playing
 20 basketball. Right?
 21 A. Yes.
 22 Q. But you do recall that Wop was on a bicycle?
 23 A. Yes.
 24 Q. Do you recall what the bicycle looked like?
 25 A. No.

7 (Pages 14122 to 14125)

Page 14126

1 Q. And you recall that he had a 380 that he showed you?
 2 A. Naw, I can't say it was a 380.
 3 Q. I'm sorry, a .38?
 4 A. It looked like a .38.
 5 Q. It looked like a .38 to you. Can you describe the .38?
 6 A. Yes. It looked like a revolver.
 7 Q. I'm sorry?
 8 A. A revolver.
 9 Q. Now, you're saying it was summertime, and you were wearing a
 10 sweatshirt before you played basketball in the summertime here
 11 in Washington, D.C. Right?
 12 A. Yes.
 13 Q. And you recall that was a Polo sweatshirt. Right?
 14 A. Yes.
 15 Q. This is not an incident -- prior to this trial, this is not
 16 an incident that you ever testified about. Correct?
 17 A. Naw.
 18 Q. No, you did, or --
 19 A. I never testified.
 20 Q. Last week was the first time that you testified under oath
 21 about this incident. Correct?
 22 A. Correct.
 23 Q. You were never asked about this in the grand jury after you
 24 talked Mr. Pfleger about it. Right?
 25 A. No.

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1 Q. And actually, back when you were dealing with Mr. Pfleger
 2 and in the Edelin case, you testified in the grand jury prior to
 3 testifying in that trial. Right?
 4 A. Yes.
 5 Q. And in that grand jury, you didn't testify about any of the
 6 instances that you're testifying about in this case. Correct?
 7 A. Because he never asked me -- answered the question -- he
 8 never asked me nothing about it in the grand jury.
 9 Q. I understand. I'm just clarifying. In that grand jury --
 10 and that was the first time that you were under oath,
 11 testifying. Right?
 12 A. Yes.
 13 Q. And that's prior to -- you also testified for the government
 14 against Lawrence Hunter. Right?
 15 A. Yes.
 16 Q. But you testified in the grand jury regarding the Edelin
 17 case prior to testifying in that trial. Right?
 18 A. Yes.
 19 Q. And after testifying against Mr. Hunter, then you testified
 20 against Mr. Edelin and the other co-defendants in that case.
 21 Right?
 22 A. Yes.
 23 Q. After the incident in 1993 -- well, do you know it was 1993,
 24 or sitting here today you think, you know, it was more or less
 25 14 years ago?

Page 14128

1 A. Well, the Polo shirt that I had had just came out, so --
 2 Q. So your recollection --
 3 A. -- at the particular time it had 1993 right here
 4 (indicating).
 5 Q. Okay. But you can't recall who was playing basketball.
 6 Right?
 7 A. I don't remember who was playing basketball.
 8 Q. After that incident, Mr. Wilson, and I'm --
 9 MS. WICKS: Mr. Wilson, could you stand up?
 10 BY MS. WICKS:
 11 Q. This is the person that you identified as Wop. Right?
 12 A. Yes.
 13 Q. I'm going to call him Mr. Wilson.
 14 Mr. Wilson still came around that neighborhood after
 15 1993. Right?
 16 A. Yes.
 17 Q. And you-all were still cool after that. Right?
 18 A. No.
 19 Q. Well, the times that you testified about last week, these
 20 shootings and these other times that you testified about --
 21 well, the shootings that you testified about last week all
 22 occurred in '96. Right?
 23 A. Yes.
 24 Q. So after the '93, there's no shootings until '96, involving
 25 Mr. Wilson, that you observed. Right?

Page 14129

1 A. It was some shootings, but it wasn't like at me. It was
 2 more at Black, JJ, Squid. It wasn't actually at me.
 3 Q. Right. Was the time --
 4 A. But there was still some shootings going on between --
 5 Q. Hold on a second.
 6 The times that you talked about shootings just last
 7 week, that you came in here and testified about, he wasn't
 8 shooting at you. Right?
 9 A. No, he wasn't shooting at me.
 10 Q. I understand. What you observed was him shooting at other
 11 people. That was your testimony. Right?
 12 A. Yes.
 13 Q. In fact, he's never shot at you. Right?
 14 A. No.
 15 Q. And you've never shot at him. Right?
 16 A. No.
 17 Q. Your testimony in the Edelin case was that you went
 18 around -- well, in the Edelin -- I'll withdraw that.
 19 In 1996, after shooting Idaho, you're part of a group
 20 of people that ends up with a stolen cab. Right?
 21 A. Correct.
 22 Q. And in that stolen cab you go around Congress Park. Right?
 23 A. Yes.
 24 Q. And this is one of the last things -- prior to getting
 25 arrested in September '96, this is essentially the last incident

8 (Pages 14126 to 14129)

Page 14130

1 that you even testified about in the Edelin case. Right?

2 A. Yes.

3 Q. In chronological order, it was the last incident that you

4 were involved in before you got arrested. Right?

5 A. Yes.

6 Q. And in the Edelin case, it was your testimony that you got

7 that cab to go around Congress Park to get Tweety. Right?

8 A. Yes.

9 Q. And you were under oath when you testified against

10 Mr. Edelin. Right?

11 A. Yes.

12 MS. WICKS: Court's indulgence.

13 BY MS. WICKS:

14 Q. When you testified last week, you talked about, one of the

15 places that you saw Mr. Wilson was at the community center on

16 15th Place. Right?

17 A. Yes.

18 Q. After this incident that you say happened in 1993, you

19 continued to see Mr. Wilson at the community center. Right?

20 A. Yes.

21 Q. And there weren't any problems at the community center.

22 Right?

23 A. No.

24 Q. When --

25 MS. WICKS: Court's indulgence.

Page 14131

1 BY MS. WICKS:

2 Q. Now, when you were having these problems with people from

3 Stanton Terrace, there was a guy that you knew from Stanton

4 Terrace named Dale. Right?

5 A. Yes.

6 Q. And do you know Dale's full name?

7 A. No.

8 Q. Dale was short?

9 A. Yes.

10 Q. At least back then. Right?

11 A. Yes.

12 Q. You haven't seen him since you got locked up, have you?

13 A. Yes.

14 Q. Yes, you have?

15 A. No, I ain't seen him since he got locked up -- since I got

16 locked up.

17 Q. And back then, prior to you getting arrested, he was about

18 the same height as Mr. Wilson. Right?

19 MR. GUERRERO: Objection, Your Honor. Scope.

20 MS. WICKS: May we approach, Your Honor?

21 THE COURT: Yes.

22 (BENCH CONFERENCE ON THE RECORD.)

23 MS. WICKS: Your Honor, my defense, at least in part,

24 to some of these shootings is misidentification. And I believe

25 that the person that he may have thought was Mr. Wilson was not

Page 14132

1 Mr. Wilson. It was another person from Stanton Terrace that

2 Tweety was close with, and I have a good faith basis to believe

3 did a number of things with Tweety.

4 MR. GUERRERO: Your Honor, I didn't go into any

5 incidents about this other person. If Ms. Wicks believes that

6 it is a misidentification, she can just go right to it and ask,

7 "Isn't it true that" -- well, I'm not going to make any

8 suggestion. But she can just go straight to that

9 misidentification, if that's what she believes, without filling

10 in that testimony through this witness about height, weight, and

11 all this other conduct about this other person, which I didn't

12 go into.

13 THE COURT: I thought I heard Ms. Wicks say that she

14 was asking this witness about the incident this witness did

15 testify about on direct examination, and was attempting to get a

16 description of someone else on the theory that it was the

17 misidentification about this incident he talked about on direct,

18 not some other one.

19 MS. WICKS: Yes.

20 THE COURT: Unless I misheard that.

21 MS. WICKS: No, that's exactly where I was going, Your

22 Honor.

23 MR. GUERRERO: But the name of that person that she's

24 trying get all the identification about was never incorporated

25 in the direct. This witness never said that person was out

Page 14133

1 there.

2 THE COURT: All right. I think it's a fair area of

3 inquiry. I'll allow it.

4 (END BENCH CONFERENCE.)

5 MS. WICKS: I'm sorry. Could I have the last question?

6 (The record is read.)

7 BY MS. WICKS:

8 Q. Correct?

9 A. Probably about the same height.

10 Q. Same complexion. Right?

11 A. Yes.

12 Q. Same build?

13 A. I don't know about the build.

14 Q. Well, it looked like he weighed about the same. Right?

15 A. Yeah.

16 Q. They were both skinny back then. Right?

17 A. I think Dale had a little weight on him.

18 Q. And he was a person that you associated with Stanton Terrace

19 that is just essentially a block or a little less than a block

20 away from that school, Turner Elementary. Right?

21 A. Correct.

22 MS. WICKS: Court's indulgence.

23 BY MS. WICKS:

24 Q. Now you indicated this morning, I think in response to

25 Mr. Tabackman's questions, that to your knowledge -- well, it's

9 (Pages 14130 to 14133)

Page 14134

1 to your knowledge that Antwuan raised Mr. Wilson?
 2 A. Yes.
 3 Q. Okay. But back in the '90s, you were spending your time up
 4 on 15th Place and Congress Place. Right?
 5 A. Yes.
 6 Q. According -- well, you weren't hanging down in
 7 Congress Park. Right?
 8 A. No.
 9 Q. You weren't hanging out with Mr. Wilson. Right?
 10 A. No.
 11 Q. You weren't hanging out with Antwuan Ball. Right?
 12 A. No.
 13 Q. Okay. And the bulk -- well, your testimony in the Edelin
 14 case was about your association and what you did with the
 15 people, specifically, mainly Squid and JJ. Right?
 16 A. Yes.
 17 Q. And so you weren't -- the vast majority of your time, from
 18 when you first started selling drugs and essentially being
 19 involved in drugs at the eight age of eight or nine until you
 20 got locked up in '96, was not with Mr. Wilson. Right?
 21 A. Naw.
 22 Q. Was not with Mr. Ball. Right?
 23 A. Naw.
 24 Q. So when you say that, it's based on rumors. Right? Not
 25 what you observed.

Page 14135

1 A. Based on rumors?
 2 Q. Yeah. It's not based on what you observed. Right?
 3 A. I mean, we wasn't hanging together.
 4 Q. That's what I'm pointing out.
 5 A. But we knew each other. It was like, they can come around
 6 our way and chill.
 7 Q. Okay. Well, when you --
 8 A. When it was cool --
 9 Q. Hold on a second.
 10 A. When it was cool, they can do that.
 11 Q. Okay.
 12 A. But once the beef start, they couldn't do it no more.
 13 Q. And you testified about one incident one time when you say
 14 Mr. Ball was driving and Mr. Wilson was in the car with him.
 15 Right?
 16 A. Yes.
 17 Q. But when the government asked you about seeing Mr. Wilson,
 18 you testified he would come up there and see the people around
 19 15th Place. Right?
 20 A. Yes.
 21 Q. And he would come to the community center. Right?
 22 A. Yes.
 23 Q. And then today I asked you about the Brooks family and the
 24 Morris family. Right?
 25 A. Yes.

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1 Q. When the government found out that you had been using
 2 marijuana and distributing marijuana at CTF, you still had a
 3 plea agreement. Right?
 4 MR. GUERRERO: Objection, Your Honor. Asked and
 5 answered.
 6 THE COURT: I'll allow it.
 7 BY MS. WICKS:
 8 Q. You still had a plea agreement. Right?
 9 A. Yes.
 10 Q. That plea agreement was never ripped up. Right?
 11 A. No.
 12 Q. You went to sentencing with that plea agreement. Right?
 13 A. Yes.
 14 Q. And you got eight years for that plea agreement. Right?
 15 A. Yes.
 16 Q. And essentially, the 50 times distributing marijuana at CTF,
 17 and all the times that you possessed marijuana and used it
 18 yourself, didn't matter a wit, did it?
 19 MR. GUERRERO: Objection. Repetitive.
 20 THE COURT: Sustained.
 21 MS. WICKS: Court's indulgence.
 22 BY MS. WICKS:
 23 Q. Now, Mr. Tabackman was asking you questions this morning
 24 about your testimony in the Edelin trial. And I believe you
 25 offered the fact that one of the times -- one of the incidents

Page 14137

1 that you testified about in this case, you also testified about
 2 in the Edelin case. Right?
 3 A. Yes.
 4 Q. Okay. And specifically, when you testified about hearing
 5 gunshots and then seeing Tweety and then seeing Wop -- and I'm
 6 talking about the incident where Squid fired. Right?
 7 A. Yes.
 8 Q. That's the incident that you testified about in the Edelin
 9 case. Right?
 10 A. Yes.
 11 Q. And when you testified in the Edelin case you said Spook was
 12 also there. Right?
 13 A. Yes.
 14 Q. And when you testified in the Edelin case -- well, when you
 15 testified last week, you indicated it was you, Squid, and JJ.
 16 Right?
 17 A. Yes.
 18 Q. When you testified in the Edelin case, you were testifying
 19 against Wah-Luck. Right?
 20 A. Yes.
 21 Q. And you testified then that Wah-Luck was also out there.
 22 Right?
 23 A. Yes.
 24 Q. And you also testified that your cousin Thomas Sims was
 25 there. Right?

10 (Pages 14134 to 14137)

Page 14138

1 A. I don't remember if he was there or not.
 2 Q. Well, specifically -- oh, so your testimony now is, you
 3 don't recall if he was there or not?
 4 A. I don't recall if he was there, but everybody else I can say
 5 they was there.
 6 Q. So now you're saying Wah-Luck was there?
 7 A. Yes.
 8 Q. And when you testified in the Edelin case -- well, when you
 9 testified in the Edelin case, it was six years ago. Right?
 10 July of 2001?
 11 A. Yes.
 12 Q. And was your memory better then or better now?
 13 A. It's better.
 14 MS. WICKS: Court's indulgence.
 15 BY MS. WICKS:
 16 Q. Well, when you testified here last week, you testified that
 17 Tweety was shooting. Right?
 18 A. Yes.
 19 Q. Okay. And you said you saw a gun in Wop's hand. Right?
 20 A. Yes.
 21 Q. But you didn't know what kind of gun it was. Right?
 22 A. No, I couldn't really tell what kind it was.
 23 Q. And you said he wasn't shooting. Right?
 24 A. Well, at the time that the gunfire was going on --
 25 Q. I'm asking about what you yourself observed. I'm not asking

Page 14139

1 you to assume. You heard gunshots. Right?
 2 A. Yes.
 3 Q. Then you saw Tweety?
 4 A. Yes.
 5 Q. And Tweety shot. Right?
 6 A. I couldn't really -- only thing I could see, you could just
 7 hear gunfire. You can't see them shooting the gun, you could
 8 just hear gunfire. After the gunfire, you could see Tweety run
 9 across the street, Squid shot at him one time.
 10 Then after that you see Cool Wop run from out the cut
 11 and run through the alley.
 12 Q. So you never saw Mr. Wilson shooting. Right?
 13 A. No.
 14 Q. And you never saw Tweety shooting. Right?
 15 A. No.
 16 Q. And you never saw Spook shooting. Right?
 17 A. Naw.
 18 Q. But you testified in the Edelin case that all of them were
 19 shooting. Right?
 20 A. Yes.
 21 Q. But you didn't see that. Right?
 22 A. Yes.
 23 Q. Yes, you did not see it. Right?
 24 A. Yes.
 25 Q. And this time when you're testifying, you're saying Wop

Page 14140

1 wasn't shooting. Right? You didn't see it. Right?
 2 A. I didn't see him shoot.
 3 Q. You didn't see Tweety shooting?
 4 A. I didn't see Tweety shoot, Spook, or him shoot. But them
 5 three was in the cut, all they bullets was going to one court.
 6 So if they had somebody else in the cut with them that went
 7 back, that was shooting, then we'll never know. But them the
 8 ones that came out the cut, so them the ones get the blame for
 9 it.
 10 Q. If people were in that cut and ran the other way, you didn't
 11 see those people, did you?
 12 A. That's what I just said. I just said, if they was in the
 13 cut with them, and they ran back the other way --
 14 Q. Okay.
 15 A. -- then they got away with it. But them two came out, so
 16 they get the blame for it.
 17 Q. But when you testified under oath, all three individuals
 18 were shooting in Blue's court on Congress Place --
 19 A. Yes.
 20 Q. -- you did not see that, did you?
 21 MR. GUERRERO: Objection. Asked and answered.
 22 A. I'm right across the street.
 23 THE COURT: Hold on. When there's an objection, I need
 24 to hear it. Sustained.
 25 BY MS. WICKS:

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1 Q. You heard gunshots, and you saw my client. Right?
 2 A. Yes.
 3 Q. That's your testimony?
 4 A. Yes.
 5 MS. WICKS: Court's indulgence.
 6 BY MS. WICKS:
 7 Q. And that's the same incident where you weren't sure -- well,
 8 you did have a gun that day, or didn't you?
 9 A. At that time I didn't remember, I wasn't sure. I wasn't
 10 sure. But I did have a gun that night.
 11 Q. And that incident took place after the first incident that
 12 you testified about. Right?
 13 A. I think it did take -- it went after that.
 14 Q. Well, when the government is asking you -- last week, when
 15 they're asking you about these different incidents, you first
 16 talked about '93. Right?
 17 A. Yes.
 18 Q. Then you talked about the incident at Congress Place and
 19 Stanton Road. Right?
 20 A. Yes.
 21 Q. Then you talked about this incident, which occurred
 22 essentially more at 15th Place and Congress Place. Right?
 23 A. Right.
 24 Q. And in your mind, chronologically, that's how they occurred.
 25 Right?

11 (Pages 14138 to 14141)

Page 14142

1 A. Right.
 2 Q. And the reason why you changed your testimony between the
 3 Edelin trial and this trial is because your cousin told you that
 4 Wop wasn't even there, didn't he?
 5 A. My cousin told me that?
 6 Q. Yes. Muncy (sic).
 7 A. When?
 8 Q. Is that why you changed your testimony?
 9 A. Naw. Why my cousin going tell me that --
 10 Q. (Inaudible) --
 11 A. -- why my cousin going to tell me that?
 12 THE REPORTER: I didn't hear the question.
 13 BY MS. WICKS:
 14 Q. I'm sorry. Did your cousin ever tell you that Wop wasn't
 15 even there?
 16 A. Naw, my cousin ain't tell me that.
 17 Q. But you're saying he was there. Right?
 18 A. I don't know if my cousin was there. I can't tell you if he
 19 was there.
 20 Q. Well --
 21 A. I don't remember him being there.
 22 Q. You don't remember him being there. When you testified in
 23 the Edelin case, you're saying he was there and you told him to
 24 get off his bicycle. Right?
 25 A. No, see, that's a different incident. The incident that you

Page 14143

1 talking about, it was Tweety, Joonie, and Cool Wop, they was
 2 walking up the alley. This is an incident that we ain't even
 3 talking about now.
 4 Q. Okay.
 5 MS. WICKS: May I approach the witness, Your Honor?
 6 THE COURT: Yes.
 7 BY MS. WICKS:
 8 Q. I'm going to show you 32-G, and specifically page 13911.
 9 This is the United States versus Tommy Edelin.
 10 A. Right.
 11 Q. This is your testimony. Right?
 12 A. Yes.
 13 Q. And here is a section where you're talking about Tweety
 14 coming through the cut, Spook coming through the cut, and
 15 Cool Wop coming through the cut. Right?
 16 A. Right.
 17 Q. And just prior to that, when the government started to ask
 18 you about this incident, they indicate, "Does there come a time
 19 when your cousin Muncy (sic) was involved in a shooting with
 20 Tweety while he was on a bicycle?" Right?
 21 A. Right.
 22 Q. This is the only incident --
 23 A. See, it don't go no farther than that?
 24 Q. I'm saying that's the introduction to this portion of your
 25 testimony. Do you see that question there?

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1 A. Right. Only why I say that because --
 2 Q. Hold on a second. That's on page 13909. Right?
 3 A. Right.
 4 Q. Just after that, on 13911, is when you're talking about
 5 seeing Tweety come through the cut, Spook come through the cut,
 6 and Cool Wop come through the cut. Right?
 7 A. Right. Well, to be honest with you, it's wrong because --
 8 Q. Mr. Green, I'm asking you the questions here.
 9 A. I know you are, but I'm just saying that's wrong.
 10 Q. And my last question was, when you testified about that,
 11 it's on page 13911 --
 12 A. Somebody did it wrong. I'm being honest with you. Somebody
 13 did it wrong.
 14 Q. Hold on a second. You'll have it -- if the government wants
 15 you to explain it, you can explain it further.
 16 And I can show you -- 32-G and 32-L I have here is all
 17 of your testimony in the Edelin case. Okay?
 18 A. Right.
 19 Q. There's no other incident in that case where you talk about
 20 Cool Wop coming through a cut. Correct?
 21 A. That isn't the only incidents that I talked about.
 22 Q. That one incident. Right?
 23 A. The one with him and Tweety coming through Turner, and the
 24 one that Spook, Tweety, and Cool Wop was in the cut. And then I
 25 ain't talk about the one with him, Joonie, and Tweety.

Page 14145

1 Q. Hold on a second. So you're saying, against Mr. Edelin you
 2 talked about the incident where him and Tweety came through the
 3 cut by Turner?
 4 A. No, not by Turner. The one on Congress, the three cuts.
 5 Q. Right.
 6 A. That's the one I talked about.
 7 Q. I just showed you that. That's on page 13911.
 8 A. That was the only one I talked about.
 9 Q. That's the only one you talked about. Correct?
 10 And I believe your answer to Mr. Tabackman this morning
 11 was that incident you were also talking about here, right, that
 12 same incident you testified against Mr. Edelin about. Right?
 13 A. In the three cuts?
 14 Q. Yes.
 15 A. Yes.
 16 Q. And that's the same as this incident that you talked about
 17 on direct last week. Right?
 18 A. Yes.
 19 MS. WICKS: Court's indulgence.
 20 BY MS. WICKS:
 21 Q. When you testified in the Edelin case, you testified that
 22 they were shooting in the cut. And then you saw Tweety run
 23 through a cut, Spook run through a cut, and Wop run -- I'm
 24 sorry, run through a cut. Right?
 25 A. Only two ran through the cut, out the cut. The other one

12 (Pages 14142 to 14145)

Page 14146

1 ran back.
 2 Q. Well, when you said in the Edelin case that you saw the
 3 shooting, that wasn't true. Correct?
 4 A. What wasn't true?
 5 Q. You didn't see a shooting that day. Correct?
 6 A. Correct.
 7 Q. Well, you saw a shooting because you saw Squid shooting.
 8 Right?
 9 A. Yeah, he shot at Tweety when he ran out the cut.
 10 Q. The incident -- now, the incident where you and JJ are in
 11 JJ's car, when you see Mr. Ball and Mr. Wilson?
 12 A. No, it's in my cousin car.
 13 Q. I'm sorry, it's in your cousin's car. Okay.
 14 And you said JJ tried to talk to Wop?
 15 A. Yes.
 16 Q. Okay. And Wop went into the house. Right?
 17 A. Well, it was more that he was still -- it wasn't like he was
 18 rushing to go in the house, he was just --
 19 Q. Well, he didn't stop and shoot you. Right?
 20 A. No, he didn't.
 21 Q. He didn't shoot at JJ. Right?
 22 A. Naw.
 23 Q. He went into Marsha Brooks' house. Right?
 24 A. Yes.
 25 Q. And that's the house that you had seen him going to several

Page 14147

1 other times. Right?
 2 A. Yes.
 3 Q. And at no point did you-all try to something to him there.
 4 Right?
 5 A. Yes.
 6 Q. Yes, you did not. Correct?
 7 A. Correct.
 8 MS. WICKS: Court's indulgence.
 9 BY MS. WICKS:
 10 Q. Do you recall what he was wearing that day?
 11 A. Naw.
 12 Q. Do you recall how his hair was done?
 13 A. I don't know. He might have had plats in his hair.
 14 Q. And this is in '96 after these other incidences. Right?
 15 A. No, this was in '95, when he went in Marsha and them house.
 16 Q. So that's before all of these shootings that you're involved
 17 with in Stanton Terrace. Right?
 18 A. In '98, '96, yeah.
 19 Q. So you're saying 1995 is the point where you see Mr. Wilson
 20 in the car with Mr. Ball?
 21 A. Yes.
 22 Q. Do you recall when it was in '95?
 23 A. No. It was during the summertime, though.
 24 Q. So summer '95?
 25 A. Yes.

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1 Q. And I think your testimony was, JJ had picked his daughter
 2 up from school?
 3 A. Yes.
 4 Q. And so it was probably June '95?
 5 A. I know it was hot.
 6 Q. Okay. So any point that it's hot in '95 when school is not
 7 let out. Right? I mean, if he picked her up from school, she
 8 went to school that day. Right?
 9 A. Yes.
 10 Q. And obviously he was there and saw all of this. Right?
 11 MR. GUERRERO: Objection. Speculation.
 12 THE COURT: Sustained.
 13 BY MS. WICKS:
 14 Q. He was standing there right next to the car. Right?
 15 A. Who is you talking about?
 16 Q. JJ. I'm sorry.
 17 A. And he saw all of what?
 18 Q. No, the government objected to that question.
 19 My question was, JJ is standing right next to the car
 20 that you're in on that day. Right?
 21 A. In the doorway.
 22 Q. In the doorway.
 23 Now, if you could clear the screen again.
 24 A. (Witness complies.)
 25 Q. The car that you were in, where was it? And I'm asking you

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1 to point out on 103.1.
 2 A. (Witness complies.)
 3 Q. You're marking to an area that looks -- okay. You're
 4 clearing the screen.
 5 A. It's where the car is right there.
 6 Q. There's a car right there in the photograph where your car
 7 was?
 8 A. Yeah.
 9 Q. I'm sorry, where your cousin's car was. And the other car
 10 that you testified about, how did it pull into the block? From
 11 which direction?
 12 A. From Congress, it came up through --
 13 Q. From 15th Place or from Stanton Road?
 14 A. It came up 15th and made a right on Congress.
 15 Q. And your car is facing towards Stanton Road. Right?
 16 A. Yes.
 17 Q. And you're driving the car. Right? I mean, you're in the
 18 driver's seat. Right?
 19 A. Yes.
 20 Q. And Mr. Ball's car is facing Stanton Road. Right?
 21 A. Yes.
 22 Q. And he pulls up next to you?
 23 A. Yes.
 24 Q. And Mr. Wilson is in the passenger side of the car?
 25 A. Yes.

13 (Pages 14146 to 14149)

Page 14150

1 Q. And he gets out to go, and you see him eventually get into
 2 Mrs. Brooks' family's residence. Right?
 3 A. Yes.
 4 Q. And JJ is standing in the doorway on the passenger side?
 5 A. Yes.
 6 Q. Now, there was a point in April of -- I'm sorry, April of
 7 last year, April of 2006, where in a facility, and I'm not
 8 asking what facility, but in the prison facility that you're in,
 9 you were interviewed by Ms. Petalas, Detective Gus, who you had
 10 known a long time. Right?
 11 A. Yes.
 12 Q. And there was also Special Agent Lockhart there. Right?
 13 A. Yes.
 14 Q. And was that the first time that you had met with Lockhart?
 15 A. I think I seen him before. I think he was around once -- a
 16 couple of times, I think.
 17 Q. But Detective Gus was the person, I think you referred to
 18 him as your agent. Right?
 19 A. Yes.
 20 Q. And that's who you had dealt with back in '98, '99, 2000,
 21 and 2001 when you were also dealing with Mr. Pflieger. Right?
 22 A. Yes.
 23 Q. And when you met with them back in April of '06, last year,
 24 you talked to them about a number of the things that you're
 25 testifying about here in this case. Right?

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1 A. Yes.
 2 Q. And when you talked to them about the incident where you're
 3 walking with Teeny Man, you told them you had heard a number of
 4 shots. Right?
 5 A. Yeah.
 6 Q. Okay. And you told them you heard later that the weapon
 7 being shot that day was a Calico. Right?
 8 A. Yes.
 9 Q. You told them that day you had observed Wop, Tweety, Drano,
 10 and Fat Tony in the car. Right?
 11 A. Yes.
 12 Q. And Wop and Tweety were in the front seats. Right?
 13 A. Yes.
 14 Q. And Fat Tony and Drano were in the back seat. Right?
 15 A. Yes.
 16 Q. And this incident, similar to your testimony last Thursday,
 17 took place after the other incidents in '96. Right?
 18 A. Say that again.
 19 Q. Well, this incident where you are with Teeny Man took place
 20 in '96. Right?
 21 A. Yes.
 22 Q. And it took place after the other situations that we've
 23 already talked about today. Right?
 24 A. Yeah. Jojo was in the car too, though.
 25 Q. I know. Now you're saying Jojo was in the car. But back

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1 when you talked the FBI in April of 2006, you told them that Wop
 2 and Tweety were in the front seat. Right?
 3 A. Yes.
 4 Q. And Drano and Fat Tony were in the back seat. Right?
 5 A. Yes.
 6 Q. And --
 7 MS. WICKS: Court's indulgence.
 8 BY MS. WICKS:
 9 Q. And you never told them that Wop had a gun. Right?
 10 A. Yes, he had a gun.
 11 Q. I understand that you're saying now that he had a gun. But
 12 when you talked to them in April of 2006, you didn't tell the
 13 FBI that Wop had a gun, did you?
 14 A. I might have did. I don't know.
 15 Q. You forgot about that?
 16 A. It's not that I forgot. It's just, sometimes like knowing
 17 that I ain't talk to the agent and them in a while, they came to
 18 me and was talking to me. So it was like everything was coming
 19 back to me that day. Because I wasn't thinking about none of
 20 that stuff or talking about none of that stuff.
 21 So now it's like opening up a book again, so now I'm
 22 starting to remember everything. So as I go, I was remembering
 23 everything.
 24 So basically, what I was saying out my mouth, they
 25 probably was just writing it down.

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1 Q. Well, do you remember them writing things down that day?
 2 A. I remember them writing something down.
 3 Q. Who was writing things down that day? And I'm talking about
 4 the interview in April of 2006.
 5 A. Ms. Ann Petalas.
 6 Q. And who else? Was anybody else writing anything down?
 7 A. Not that I remember. Probably was.
 8 MS. WICKS: Court's indulgence.
 9 BY MS. WICKS:
 10 Q. When you discussed this incident last week, you indicated
 11 that La-La was out there?
 12 A. Yeah.
 13 Q. And that there were females with La-La?
 14 A. Yeah.
 15 Q. Do you recall what females were out there with La-La?
 16 A. They was a girlfriend.
 17 Q. I'm sorry?
 18 A. They was his girlfriend.
 19 Q. Whose girlfriend?
 20 A. La-La's girlfriend.
 21 Q. Do you know her name?
 22 A. Charise. I think her name was Charise. There was another
 23 girl named Sharmaine. I can't think of the other girl name.
 24 She used to live around there. I can't think of her name.
 25 Then there was like Sharmaine's brother and somebody

14 (Pages 14150 to 14153)

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1 else, they was all on the wall, smoking and drinking.
 2 Q. And they were right there by Sharmaine's house. Right?
 3 A. Yeah, Sharmaine house is on the left and they was sitting on
 4 the right.
 5 Q. And there were other guys out there other than La-La and
 6 Sharmaine's brother. Right?
 7 A. It was, I think another guy named Black. That's Charise
 8 brother.
 9 MS. WICKS: Court's indulgence.
 10 BY MS. WICKS:
 11 Q. And I think this incident, just like the other incidents,
 12 took place after the police ran up in your grandmother's house.
 13 Right?
 14 A. I think so.
 15 Q. And was this before or after shooting Idaho?
 16 A. I think this was before I shot Idaho, I think. I think this
 17 happened before I shot Idaho. Yeah, I think this happened
 18 before I shot Idaho.
 19 MS. WICKS: Court's indulgence.
 20 BY MS. WICKS:
 21 Q. Now, I think the government asked you some questions about
 22 people that you hung with and people that you sold drugs with in
 23 that neighborhood, 15th Place. Right?
 24 A. Yes.
 25 Q. Actually, living just almost next door to you on Alabama

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1 Avenue, I think there was someone that you knew named Derek?
 2 MR. GUERRERO: Objection. Scope.
 3 MS. WICKS: May we approach, Your Honor?
 4 THE COURT: Yes.
 5 (BENCH CONFERENCE ON THE RECORD.)
 6 MS. WICKS: I don't understand how -- I don't think
 7 it's beyond the scope for me to ask about other people in that
 8 neighborhood when the government brought out who he was hanging
 9 with and who he was selling drugs with in that neighborhood, on
 10 direct.
 11 And I believe this is another individual that he was
 12 hanging with in that neighborhood.
 13 MR. GUERRERO: I mean, the name Derek was never
 14 mentioned on direct examination. There's a purpose why
 15 cross-examination is limited to direct. Just because we talk
 16 about a topic and he never mentions this person Derek doesn't
 17 give the defense a free-for-all to include everybody else that
 18 he did not mention.
 19 THE COURT: Well, is it accurate that on direct
 20 examination he testified, or you asked about who he was hanging
 21 out with and selling drugs with in that neighborhood?
 22 MR. GUERRERO: Yes. And he never mentioned this person
 23 Derek. And now the defense wants to inject this person Derek
 24 into the group of people he was talking about, when we never
 25 raised that.

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1 THE COURT: Do you have a good faith belief that this
 2 is somebody with whom he was selling drugs?
 3 MS. WICKS: Yes.
 4 THE COURT: I'll allow it.
 5 (END BENCH CONFERENCE.)
 6 THE COURT: But you have to wait.
 7 BY MS. WICKS:
 8 Q. Hanging in that neighborhood, and also selling drugs during
 9 the same time period that you were hanging in that neighborhood
 10 and selling drugs, was an individual named Derek. Right?
 11 A. Yes.
 12 Q. Do you know Derek's last name?
 13 A. Huh-uh.
 14 Q. Do you know where Derek lived?
 15 A. He lived in the back of my house, across from me.
 16 Q. Would that have been 1512 Alabama?
 17 A. Yes.
 18 Q. And Derek was friends with Idaho. Right?
 19 A. Yes.
 20 Q. And you also saw Derek hanging with a guy named Oonie.
 21 Right?
 22 A. Yes.
 23 Q. And they were hanging -- I'm sorry?
 24 A. I think that's his cousin.
 25 Q. And they were hanging up in that neighborhood. Right?

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1 A. In our neighborhood?
 2 Q. Yeah.
 3 A. Yeah, Oonie used to come up there all the time.
 4 MS. WICKS: Court's indulgence.
 5 BY MS. WICKS:
 6 Q. During the three years that you were at CTF, that was prior
 7 to testifying against Mr. Edelin. Right?
 8 A. Yes.
 9 Q. And JJ was there?
 10 A. He came later.
 11 Q. And your cousin Mussy. Is that his name?
 12 A. Yes.
 13 Q. He was there with you. Right?
 14 A. Yes.
 15 Q. Now, the person -- I think when Mr. Tabackman was asking you
 16 questions, you also indicated there was another guy there that
 17 you called Slim?
 18 A. Yes.
 19 Q. You don't know his name, though. Right?
 20 A. No, we just called him Big Slim.
 21 MS. WICKS: And actually, can I approach with
 22 Mr. Guerrero, Your Honor, the court?
 23 MR. GUERRERO: Court's indulgence.
 24 (BENCH CONFERENCE ON THE RECORD.)
 25 MS. WICKS: I'm going to get into issues of where he

15 (Pages 14154 to 14157)

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1 is, but I don't want to presume that he's held at CTF, and I
2 don't think he's held at CTF during this testimony. But I just
3 wanted -- if he was, I wanted to go into it, but I didn't want
4 to inquire in front of the jury.

5 MR. GUERRERO: Quite frankly, Your Honor, I don't even
6 know where he is right now. The U.S. Marshals even keep that a
7 secret from us.

8 He's in Witness Security right now, Mr. Damien Green
9 is. And we go through main Department of Justice to get him
10 here, so it would be up to the U.S. Marshal to find out the
11 answer to that. I don't know. I don't believe he's at CTF, but
12 I really don't know.

13 MS. WICKS: If I can just wait on that issue until we
14 have a break, and that will be my next area. But I can wait
15 until a break to get a chance for them to consult, and if it's
16 not something that -- if there's no --

17 THE COURT: For whom to consult?

18 MS. WICKS: I don't think we need to do it right now --
19 I think it's something that I'm entitled to go into if he's
20 being held at CTF. I don't know if he is or not, if he's being
21 held at CTF during his testimony here in this case or prior to
22 it. And obviously, Mr. Guerrero doesn't know.

23 If that is something they can tell me about, I would
24 like to know that.

25 MR. GUERRERO: I'm just getting a note from my

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1 colleagues that we believe he is not at CTF.

2 MS. WICKS: Okay. Then I'm not going to go into it.

3 THE COURT: I was going to wait until 3:45 to take a
4 break, but I think I'll just take it now unless you need to
5 continue with a few more questions.

6 MS. WICKS: No, that would be good. Because there's
7 areas that I'm not going to go into, obviously, because other
8 counsel has, so I can get through that during the break, and
9 then be a little expeditious in front of the jury when we get
10 back.

11 (END BENCH CONFERENCE.)

12 THE COURT: Ladies and gentlemen, it's roughly 3:30.
13 We'll go ahead and take our mid-afternoon break at this point.
14 Please remember not to talk about the case, and to take your
15 notes with you back into the jury room. I would ask that you be
16 back at 3:45. Enjoy your break.

17 (Jury out at 3:29 p.m.)

18 THE COURT: We'll see you back in 15 minutes.

19 (Recess taken at 3:30 p.m.)

20 THE COURT: Are you ready for the jury, Ms. Wicks?

21 MS. WICKS: Yes, Your Honor.

22 (Jury in at 3:49 p.m.)

23 THE COURT: Good afternoon, ladies and gentlemen.
24 Welcome back. We're ready to resume.

25 MS. WICKS: Thank you, Your Honor.

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1 BY MS. WICKS:

2 Q. Mr. Green, also when you spoke to the FBI in April of '06,
3 you told them that Mo Brown may have been in the car when Black
4 got shot. Right?

5 A. Yes.

6 Q. And that was based on what Black told you. Right?

7 A. Yes.

8 Q. And when you spoke -- now, when you pled guilty to shooting
9 Idaho, you were interviewed for a PSI. Right? A presentence
10 report investigation for the court. Right?

11 A. Yes.

12 Q. And you were also interviewed over at CTF for a Youth Act
13 study. Right?

14 A. Yes.

15 Q. And you lied to the PSI writer when you told the PSI writer
16 that Idaho was reaching for his gun. Right?

17 A. Yes.

18 Q. And you lied to -- you similarly lied to the Youth Act study
19 people also trying to justify the shooting, saying that Idaho
20 had a gun. Right?

21 A. Yes.

22 Q. And when you said you observed Idaho reaching for his gun,
23 that was a lie to the Youth Act study people as well. Right?

24 A. Yes.

25 Q. You also lied to the Youth Act study people about -- you

Page 14161

1 over -- well, you embellished on your use of drugs and alcohol.

2 Right?

3 A. Yes.

4 Q. You told them that you smoked PCP every day, drank 10 beers
5 a day, and a fifth of Hennessy. Right?

6 A. Yes.

7 Q. And that was not true. Right?

8 A. Yes, that's true.

9 Q. That is true?

10 A. I drunk beer every day and I drunk Hennessy most every
11 night.

12 Q. Well, did you drink that much on a daily basis?

13 A. Yeah, I drank about 10 22-ounce St. Ives every day.

14 Q. Every day?

15 A. Every day.

16 Q. Okay. And a fifth of Hennessy every day?

17 A. If I had the money for the Hennessy. But if I ain't got the
18 money, I buy E&J.

19 Q. A fifth of E&J?

20 A. Yeah.

21 Q. If you don't get a fifth of Hennessy, you get a fifth of
22 E&J. Right?

23 A. Yes. But I'm drinking with it other people, too.

24 Q. And the other people that you're drinking with are Squid and
25 JJ. Right?

16 (Pages 14158 to 14161)

Page 14162

1 A. Sometimes. Sometimes it be Wah-Luck, Mark, Honky, or
 2 Cooler. It depends on who goes to the liquor store with me or
 3 who put in with me.
 4 Q. And your drinking of this amount every day started in '93 or
 5 '94. Right?
 6 A. Yeah.
 7 Q. And every day up until when you got locked up in 1996.
 8 Right?
 9 A. Yes.
 10 Q. And you also told, I believe it's the presentence report
 11 writer, you also told the presentence report writer that you
 12 used cocaine and heroin. Right?
 13 A. That's a lie.
 14 Q. That was a lie, but that's what you told them. Right?
 15 A. I ain't tell them that, because I ain't never used no
 16 cocaine.
 17 Q. I understand that. But you admit that you lied to both the
 18 Youth Act people and the PSI writer back in 1996. Right?
 19 A. But see, that's the thing: I'm telling you that I lied to
 20 them, but if I said that I used cocaine, I would say -- tell you
 21 I used it. But I didn't, and I ain't lie to them about that.
 22 Q. So that's the one thing you didn't lie about in terms of
 23 your drug use and your alcohol use?
 24 A. I guess they put that in theyself.
 25 Q. And I think your testimony was prior to going -- well, you

Page 14163

1 went to Lorton after you were arrested for shooting Idaho.
 2 Right?
 3 A. I stayed over at the jail for a minute, and then I went to
 4 Lorton.
 5 Q. And did you go to Lorton before or after you were sentenced?
 6 A. I went to Lorton before I got sentenced.
 7 Q. And your use of heroin at Lorton was before or after you
 8 were sentenced?
 9 A. I think I tried heroin 1997, 1997, before I went to Ohio.
 10 So 1997, I was locked down, and they came in the hole and took
 11 us up to Ohio, Youngstown.
 12 So I used it one time in the hole.
 13 Q. And my question to you is, is that before or after you were
 14 sentenced by Judge Burgess?
 15 A. I think I was sentenced already. I think I already got
 16 sentenced.
 17 Q. So when you told the PSI writer that you had used heroin,
 18 that was also a lie. Right?
 19 A. No, I can't say that was a lie.
 20 Q. You think you may have used heroin before you got sentenced?
 21 A. No, because I think -- let me see. I went to Lorton before
 22 I got sentenced, and then I went to CTF for my Youth Act study.
 23 Then once I got my Youth Act study, I came back, yeah, and I
 24 lied to them about that.
 25 Q. The incident where you were locked down at Lorton, did that

Page 14164

1 occur before or after you were sentenced?
 2 A. What incident?
 3 Q. There was an incident, a stabbing incident that you were
 4 locked down for at Lorton. Right?
 5 A. Yeah.
 6 Q. And was that before or after you were sentenced?
 7 A. That was after.
 8 Q. And when you were locked down for that stabbing incident is
 9 when you were in the hole and you used heroin. Right?
 10 A. Yes.
 11 Q. That's the truth about the one time you used heroin. Right?
 12 A. Yes.
 13 Q. And --
 14 MS. WICKS: Court's indulgence.
 15 BY MS. WICKS:
 16 Q. When you -- back when you had a cooperation agreement with
 17 the government in writing, that was in '98. Right?
 18 A. I think it was in '97. If I'm not mistaken, I think --
 19 MS. WICKS: May I approach the witness, Your Honor?
 20 THE COURT: Yes.
 21 A. I think it was in '97.
 22 BY MS. WICKS:
 23 Q. I'm going to show you Defense Wilson 32-B. And this is a
 24 letter dated February 19th, '98. Do you see that here?
 25 A. Yes.

Page 14165

1 Q. And it's regarding the United States versus Damien Green.
 2 Right?
 3 A. Yes.
 4 Q. Does this look like your plea agreement?
 5 A. Yes.
 6 Q. And in your plea agreement, it includes a provision here on
 7 page three that you will not commit any criminal violations --
 8 MR. GUERRERO: Objection. Hearsay.
 9 MS. WICKS: I'll just ask --
 10 THE COURT: Sustained, but you can rephrase.
 11 BY MS. WICKS:
 12 Q. Part of your plea agreement was that you not commit any
 13 criminal violations during the period of your cooperation.
 14 Right?
 15 A. Yes.
 16 Q. And you violated that. Right?
 17 A. How?
 18 Q. I think your testimony this morning was there were 50 times
 19 when you distributed marijuana at CTF. Right?
 20 A. Right.
 21 Q. And how many times did you have in your possession and use
 22 marijuana at CTF?
 23 MR. GUERRERO: Objection. Repetitive.
 24 MS. WICKS: Just how many times. I don't think he's
 25 been asked that question.

17 (Pages 14162 to 14165)

Page 14166

1 THE COURT: Go ahead.
 2 BY MS. WICKS:
 3 Q. How many times?
 4 A. I've been there three or four years? Out three or
 5 four years, I smoke marijuana maybe over 100 times.
 6 Q. And you still had your plea agreement when you went to
 7 sentencing. Right?
 8 A. Yes.
 9 MS. WICKS: I have no further questions, Your Honor.
 10 THE COURT: All right. Mr. Beane?
 11 MR. BEANE: Thank you, Your Honor.
 12 CROSS-EXAMINATION
 13 BY MR. BEANE:
 14 Q. Good afternoon.
 15 A. All right.
 16 Q. Do you remember last week when you were testifying in your
 17 direct testimony? Do you remember that?
 18 A. Naw.
 19 Q. Okay. Mr. Guerrero I believe was asking you questions. Do
 20 you remember that?
 21 A. Yes.
 22 Q. And about halfway through your questions by Mr. Guerrero,
 23 Mr. Guerrero asked you a question about Gregory Bell. Do you
 24 remember that?
 25 A. What's his nickname?

Page 14167

1 Q. Boy-Boy.
 2 A. Yes.
 3 Q. And Mr. Guerrero said, "Now, what about Boy-Boy?" Do you
 4 remember that question?
 5 A. Yes.
 6 Q. And he asked you how you knew Boy-Boy. Right?
 7 A. Yes.
 8 Q. And then he asked you whether or not you ever sold drugs to
 9 Boy-Boy. Right?
 10 A. I sold drugs to Boy-Boy.
 11 Q. Mr. Guerrero asked you whether you ever sold drugs to
 12 Boy-Boy -- I'm sorry, bought drugs from Boy-Boy.
 13 A. Oh, yeah.
 14 Q. And your answer was, yes, a couple of eight-balls?
 15 A. Yeah.
 16 Q. Okay. And according to you, this happened between 1993 and
 17 1996. Right?
 18 A. Yeah.
 19 Q. Now, prior to your testimony here last week about
 20 Gregory Bell, when was the first time you testified about
 21 Boy-Boy selling you drugs?
 22 A. This is the first time.
 23 Q. So you've never testified to that before. Right?
 24 A. Well, I talked to Pflieger about it.
 25 Q. When did you talk to Pflieger about it?

Page 14168

1 A. I talked to Pflieger about all the people I bought drugs
 2 from, all the people that fronted me drugs.
 3 Q. When did you do that?
 4 A. This was before the Tommy Edelin case started.
 5 Q. So before the Tommy Edelin case started, you talked to
 6 Pflieger about Boy-Boy selling you drugs. Right?
 7 A. Yes.
 8 Q. Okay. And then after you talked to Pflieger about all the
 9 drug dealing in the Edelin case, you went into the grand jury.
 10 Right?
 11 A. Yes.
 12 Q. And when you went into the grand jury after talking to
 13 Pflieger, you never mentioned the words Boy-Boy, did you?
 14 A. Because he never asked me.
 15 Q. He never said, "Hey, don't tell us about Boy-Boy, just tell
 16 us about this." He never said that. Right?
 17 A. The grand jury was based on the prosecutor asking the
 18 questions, and I just answered and that's it. He never
 19 mentioned Boy-Boy, so I never said nothing.
 20 Q. Just like right then I asked you a simple question, and you
 21 came back with more than I was asking you. You had that same
 22 opportunity in the grand jury, didn't you?
 23 A. Yeah.
 24 Q. And when you were in there and you were asked questions
 25 about Tommy Edelin and what was going on, you never did that;

Page 14169

1 you never said Boy-Boy also sold me drugs?
 2 A. I told Mr. Pflieger that I got drugs from Boy-Boy, but it
 3 ain't go in the grand jury statement.
 4 Q. Okay. That's fine.
 5 Now, before you got here today, I believe you indicated
 6 you were contacted about two weeks ago by somebody from the
 7 government. Right?
 8 A. Yes.
 9 Q. And that was Gus. Correct?
 10 A. Yes.
 11 Q. And who else?
 12 A. Ms. Ann Petalas and another detective.
 13 Q. So Ms. Petalas contacted you as well?
 14 A. Yes.
 15 Q. Did she come meet with you or did she give you a phone call?
 16 How did Ms. Petalas contact you?
 17 A. I talked to them a couple of times first, and then they came
 18 to see me.
 19 Q. So you talked to Ms. Petalas a couple of times before they
 20 went to see you?
 21 A. Yes.
 22 Q. And in those conversations -- well, before you talked to --
 23 before you met with Ms. Petalas, did you talk to her about
 24 Boy-Boy?
 25 A. I think I did. I think I did.

18 (Pages 14166 to 14169)

Page 14170

1 Q. You talked to her on the phone about it?

2 A. Yeah, I think -- yeah.

3 Q. How long was this phone call you had with Ms. Petalas?

4 A. No longer than 45 minutes, 30 minutes. It wasn't that long.

5 Q. And during this conversation, did you talk to her about your

6 testimony here today?

7 A. Yes, I did.

8 Q. And you talked to her about all the things you've already

9 said on direct testimony. Right?

10 A. Yes.

11 Q. And at some point you yourself bring up Boy-Boy. Is that

12 correct?

13 A. Yes.

14 Q. So Ms. Petalas or somebody from the government doesn't say,

15 "Hey, what about Boy-Boy? Do you know Boy-Boy?"

16 A. Yeah, they asked me did I know him.

17 Q. So they brought it up first?

18 A. Yeah.

19 Q. And when they brought it up, you said to them, "Yeah, I know

20 Boy-Boy, he sold me a couple of eight-balls." Right?

21 A. Right.

22 Q. And then you told them the date on which he sold you the

23 eight-balls. Right?

24 A. No, I don't remember the date.

25 Q. Well, you told us that he sold you eight-balls. You let us

Page 14171

1 know what date that was.

2 A. I don't know what date it was, but it was between 1993 and

3 between 1996. During the summer 1996, I had ran into him and

4 got some from him, but during the long period of time, I ain't

5 get that much from him. I bought probably no more than six

6 eight-balls from him. I used to buy wholesales from him. He

7 used to give me wholesales.

8 Q. This is between 1993 and 1996. Yes?

9 A. Yes.

10 Q. When was it that Reecy was killed?

11 A. Reecy was killed in '93.

12 Q. And then Reecy's killing was when the beefing started.

13 Right?

14 A. Yes.

15 Q. And who was beefing?

16 A. It was us against Congress Park.

17 Q. So the 1-5 Mob against Congress Park?

18 A. Yes.

19 Q. And Tommy Edelin was in charge of 1-5 Mob, wasn't he?

20 A. Yeah.

21 Q. Okay. And you told us that Tommy Edelin was your main

22 supplier of crack. Right?

23 A. Well, he was the main supplier. You had other main

24 suppliers, too.

25 Q. So if he's your main supplier and his crew is beefing with

Page 14172

1 Congress Park, and you're saying that Mr. Bell is a member of

2 Congress Park, why in the world would you go buy drugs from your

3 competitor?

4 A. Because you got to understand, it's like this:

5 Congress Park was getting drugs from Tommy, too.

6 Q. So Congress Park and Tommy Edelin were not beefing?

7 A. It wasn't that Tommy was beefing with them with a gun. What

8 I'm trying to say is the beef come from Reecy robbing one of

9 Tommy's guys, so they put a hit out on Reecy. So once Reecy got

10 killed, that's when Antwuan and them got mad and they ain't like

11 when Squid killed Reecy.

12 So it was more focused on Squid at first, then as it

13 got bigger --

14 Q. Wait a minute. My question to you was about your going to

15 buy drugs from Tommy Edelin's competitor. Okay?

16 A. He's not a competitor to Tommy. He ain't on Tommy level.

17 Q. Okay. Well, wait a minute. But you're buying drugs from

18 Tommy. Tommy is your supplier. Right?

19 A. I never bought drugs from Tommy.

20 Q. Tommy was not supplying you with drugs?

21 A. No. I used to get drugs from his father. I never went and

22 got drugs from Tommy. I never even seen a dime in Tommy hand.

23 Q. What about Eric? You testified last week that Eric supplied

24 you with drugs as well.

25 A. I went to him and bought wholesales from him too before.

Page 14173

1 Q. Okay. But Eric got his drugs from Tommy's father, didn't

2 he?

3 A. Naw, he get it from Tommy --

4 Q. He got his drugs from Tommy --

5 A. -- he ain't get it from his father.

6 THE REPORTER: I'm sorry, I can't hear your question

7 when he's still talking.

8 BY MR. BEANE:

9 Q. So he got, meaning Eric, also got his drugs from Tommy.

10 Right?

11 A. Yeah.

12 Q. Now, you know that out on the street, selling drugs is a

13 competition, isn't it?

14 A. Yeah, you could say it's a competition. But, I mean, it

15 ain't a competition when you ain't got drugs like this man here.

16 Q. Well, wait a minute. So Mr. Edelin is out there selling

17 drugs, but he doesn't care about his competitors?

18 A. You got to understand, Tommy, he was the type of guy, you

19 never see him with a drug in his hand. You never see him --

20 Q. That's not my question.

21 A. -- so he had other people running it for him.

22 Q. But that's not my question. Mr. Edelin was in fact selling

23 or supplying drugs to other people. Right?

24 A. Yeah.

25 Q. And according to you, Mr. Bell was also supplying drugs to

19 (Pages 14170 to 14173)

Page 14174

1 other people. Right?

2 A. Yeah.

3 Q. And we can at least agree that when two people are selling

4 the same things in the same area, they are in competition with

5 each other. Right?

6 A. Well, not really. Because just like in 1-5, you had a guy

7 named Dune (ph) was selling a lot of coke. He was getting coke

8 from other places. That don't mean you got to be mad at him

9 because he got coke.

10 Q. Okay. All right. If you say so.

11 At some point last week you said you knew Gregory Bell

12 through his brother Santuce. Is that right?

13 A. Right.

14 Q. Who introduced you to Mr. Bell?

15 A. Naw, it just you grow up -- you grew up around him. It's

16 like I went to Johnson, I went to Malcolm X, so I ran into

17 Boy-Boy all my life, at the store. Boy-Boy a cool dude. He was

18 a cool dude on the street. I ain't never had no beef with

19 Boy-Boy; Boy-Boy ain't never had no beef with me. He never

20 showed me no gun, I never showed him no gun. I never

21 disrespected him or nothing.

22 Q. All right. That's fair. Let me ask you this: You say that

23 at some point you come down and you actually speak to the

24 government in person. Right?

25 A. Yes.

Page 14175

1 Q. Yes? When was that?

2 A. Last Friday.

3 Q. Last Friday?

4 A. No, I came down last Tuesday.

5 Q. And who did you talk to in that meeting?

6 A. On a Wednesday, I talked to Mr. Guerrero.

7 Q. Anybody else in there?

8 A. The marshals and the agent.

9 Q. How about Ms. Petalas? Was she there?

10 A. She came in there for a minute.

11 Q. And when Ms. Petalas was in there, did she ask you about

12 Mr. Bell again?

13 A. Not that I know of, no.

14 Q. Did anybody ever ask you on what day you sold cocaine or

15 crack to Mr. Bell?

16 A. No, we ain't never talk about what day, but I talked about

17 buying the coke from him.

18 Q. But you never really gave them a date or time frame. Right?

19 A. Naw.

20 MR. BEANE: Court's indulgence.

21 BY MR. BEANE:

22 Q. Just a couple more questions.

23 Do you actually know where Mr. Bell lives?

24 A. I know he lived around Congress Park. I don't know what

25 exactly door, but I know -- I think it was across the street

Page 14176

1 from the rental office.

2 Q. Across the street from the rental office?

3 A. I think so.

4 Q. That's where he lived with his family?

5 A. Yeah, with his mother. Last time I know, it was his mother

6 and his brothers and sisters.

7 Q. Always lived there?

8 A. They always lived there.

9 Q. Never moved?

10 A. Not that I know of.

11 Q. Thank you.

12 MR. BEANE: Nothing further.

13 THE COURT: All right. Anything further?

14 REDIRECT EXAMINATION

15 BY MR. GUERRERO:

16 Q. Good afternoon, Mr. Green.

17 A. All right.

18 Q. Mr. Green, I would like to go back to last week when

19 Mr. Tabackman was asking you some questions about you shooting

20 at police officers. Do you remember that?

21 A. Yes.

22 Q. And during that cross-examination, the word "murders" were

23 used. Was it your understanding that anyone was killed as a

24 result of you shooting at that car?

25 A. No.

Page 14177

1 Q. And in fact, did you plead guilty to that as part of your

2 RICO conspiracy case?

3 A. Yes.

4 Q. Mr. Tabackman was asking you about your life-style back

5 then, and you said in response to that that you violated that

6 life-style and you can't go back. What do you mean by that?

7 Explain.

8 A. That mean that I testified on my friends, I hurt a lot of

9 people in my family and they family. It's a lot of stuff that I

10 done that I can't go back to. I have to change my life.

11 Q. Have you told the government everything that you had done

12 back out in 1993 or 1996?

13 A. Yes.

14 Q. You mentioned in that cross-examination that at one point

15 Antwan and Jojo were part of Young Young Crew. Do you remember

16 that?

17 A. Yes.

18 Q. Explain that.

19 A. They grew up around Tommy. They grew up around --

20 MR. MARTIN: Objection. Basis of knowledge, 602, Your

21 Honor.

22 MR. TABACKMAN: Objection.

23 THE COURT: Let's establish the foundation.

24 BY MR. GUERRERO:

25 Q. Tell us, if you know, did you ever see them as part of

20 (Pages 14174 to 14177)

Page 14178

1 Young Young Crew?
 2 A. Yes.
 3 Q. And what did you see them do?
 4 A. They used to hang with Tommy, they used to gang up and go
 5 places and fight other places. Tommy was the leader. I was
 6 young then, but, you know, it was in my neighborhood, so I
 7 always was seeing it. So...
 8 Q. Did there come a point when Reecy was killed that that
 9 changed?
 10 A. Yes.
 11 Q. And what did you see change?
 12 A. It was more as once Reecy got killed, Tommy and them was
 13 still talking to Antwuan and all them; it was more as Antwuan
 14 was messed up at Tommy and them, but --
 15 MR. TABACKMAN: Objection. 602.
 16 MR. MARTIN: Objection also, Your Honor. If we could
 17 have a time frame, please.
 18 THE COURT: Establish foundation and time frame.
 19 MR. TABACKMAN: And an ability to see, an opportunity
 20 to observe what he's testifying to.
 21 BY MR. GUERRERO:
 22 Q. Tell us what you saw, Mr. Green.
 23 A. It's like I said, once Reecy got killed and -- it was more
 24 like Antwuan was messed up at Squid. He was --
 25 MR. ZUCKER: Objection. Foundation.

Page 14179

1 BY MR. GUERRERO:
 2 Q. Did you see that with your own eyes?
 3 A. Yes.
 4 MR. ZUCKER: Objection to -- could we approach for a
 5 second?
 6 THE COURT: No. Put another question to make clear
 7 what that means.
 8 BY MR. GUERRERO:
 9 Q. Only tell us what you saw with your own eyes that made you
 10 conclude that.
 11 A. I already knew Squid had killed Reecy, but I never talked to
 12 Squid about it after the fact.
 13 But me and Squid was standing in front of the center,
 14 and Antwuan rolled down the street. Tony pulled him over, and
 15 we went to go talk to him.
 16 Q. When you say Squid, is that Tony Edelin?
 17 A. No, Squid is I think Ronnie Middleton, I think.
 18 Q. So go ahead. You're telling us about the rec center.
 19 A. Tony stopped Antwuan, and Antwuan pulled over. He was
 20 driving a brown van. And like the center was right here
 21 (indicating), he pulled a little further up.
 22 So Squid was like, "Let me holler at you," and Antwuan
 23 was like, "Fuck naw, you killed my man." So Squid was like,
 24 "Well, fuck you, then." Excuse my language.
 25 So that was that. So Squid ain't say nothing, but --

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1 Squid was mad, but it was a done deal.
 2 Q. And after that, is that when all the shootings that you
 3 testified to in the last week or so occurred, between '93 and
 4 '96, after Reecy was killed?
 5 A. Yes. Even though him and Antwuan didn't get along, we
 6 already knew that Squid was a target. But it ain't like --
 7 MR. MARTIN: Objection as to speculation.
 8 MS. WICKS: Objection.
 9 THE COURT: Sustained.
 10 MR. TABACKMAN: Hearsay.
 11 THE COURT: I sustained the objection.
 12 MR. TABACKMAN: I didn't hear, Your Honor.
 13 BY MR. GUERRERO:
 14 Q. Let me move on to a different topic. You said in
 15 cross-examination with Mr. Tabackman that it wouldn't be
 16 uncommon when you go to a go-go club and they yell out your
 17 street --
 18 MR. ZUCKER: Objection.
 19 THE COURT: Let him finish the question.
 20 BY MR. GUERRERO:
 21 Q. Do you remember that?
 22 A. Say that again.
 23 Q. You said in cross-examination to Mr. Tabackman that it
 24 wouldn't be uncommon that you go to a go-go club and you would
 25 yell out your street name?

Page 14181

1 A. Right.
 2 THE COURT: Objection is overruled.
 3 BY MR. GUERRERO:
 4 Q. Did you ever hear the name Congress Park yelled out?
 5 MS. WICKS: Objection. Hearsay.
 6 THE COURT: Overruled.
 7 A. Once in the blue.
 8 BY MR. GUERRERO:
 9 Q. Let's talk about your drug abuse. Okay? PCP, remember
 10 that?
 11 A. Right.
 12 Q. You said that you actually used Woodies or Shermans before?
 13 A. Naw. I smoked Shermans, but I never smoked Woodies.
 14 Q. And the instances that we talked about with Antwuan Ball
 15 being at the rec center, were you under the influence of PCP
 16 then?
 17 A. No.
 18 Q. How about when Cool Wop, and the incident that we talked
 19 about with Squid and Sabrina off Stanton Road, were you on PCP
 20 then?
 21 A. Naw, but I had something to drink, though.
 22 Q. Was there any doubt in your mind that you saw Antwuan over
 23 at the rec center?
 24 MR. TABACKMAN: Objection. Leading.
 25 THE COURT: Overruled.

21 (Pages 14178 to 14181)

Page 14182

1 BY MR. GUERRERO:
 2 Q. You can answer.
 3 A. I saw him.
 4 Q. And was there any doubt in your mind that you saw Wop around
 5 the area where Squid and Sabrina on Stanton Road incident?
 6 A. Yes.
 7 Q. Is there any doubt or no doubt?
 8 A. No, there's no doubt.
 9 MS. WICKS: Objection. Leading.
 10 THE COURT: Overruled.
 11 MR. GUERRERO: Court's indulgence.
 12 BY MR. GUERRERO:
 13 Q. How about the incident that happened over on -- there was
 14 three cuts that you were talking about with Wop and Tweety. Do
 15 you remember that?
 16 A. Yes.
 17 Q. Was there any doubt in your mind then that Wop and Tweety
 18 were there?
 19 A. No, there wasn't no doubt. They was there.
 20 Q. Were you under the influence of PCP?
 21 A. I probably had something to drink. I don't remember having
 22 no PCP.
 23 Q. Now, that's the incident that Ms. Wicks was talking about
 24 with Spook being involved in that, too. Right?
 25 A. Yes.

Page 14183

1 Q. I believe that's the incident that she talked about that you
 2 testified in the Edelin case whether or not you saw Wop and
 3 Tweety shooting. Do you remember that?
 4 A. Right. But she turned it around to a different case.
 5 MR. MARTIN: Objection.
 6 BY MR. GUERRERO:
 7 Q. And you were trying to explain that --
 8 MR. ZUCKER: Objection.
 9 MS. WICKS: Objection.
 10 THE COURT: Sustained.
 11 BY MR. GUERRERO:
 12 Q. You were explaining in response to that incident that there
 13 was a different incident --
 14 MR. ZUCKER: Objection.
 15 MS. WICKS: Objection.
 16 BY MR. GUERRERO:
 17 Q. -- involving Joonie --
 18 MR. ZUCKER: Same objection.
 19 BY MR. GUERRERO:
 20 Q. -- do you remember that?
 21 THE COURT: Let him finish the question.
 22 A. Yes.
 23 THE COURT: Hold on. Let him finish the question.
 24 MR. GUERRERO: That was my question, Your Honor.
 25 THE COURT: What is the question?

Page 14184

1 BY MR. GUERRERO:
 2 Q. In response to that topic, you were explaining that there
 3 was a different incident that she was talking about that
 4 involved Joonie. Do you remember that?
 5 A. Yes.
 6 MS. WICKS: Objection.
 7 THE COURT: Overruled.
 8 MS. WICKS: May we approach?
 9 THE COURT: No. Overruled.
 10 BY MR. GUERRERO:
 11 Q. And what was the misunderstanding? Are there two different
 12 incidents?
 13 A. Yes.
 14 Q. And tell us about this other incident that you were talking
 15 about.
 16 MS. WICKS: Objection.
 17 THE COURT: Basis?
 18 MS. WICKS: May we approach, Your Honor?
 19 THE COURT: All right.
 20 (BENCH CONFERENCE ON THE RECORD.)
 21 MS. WICKS: Your Honor, my cross-examination was based
 22 on his answer to Mr. Tabackman, which was there was one incident
 23 that he testified about in Edelin that was the same as one of
 24 the incidents that he testified about here. That's where my
 25 cross-examination was. In response to one of my questions, he

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1 brought up another shooting. I didn't go into that. So I think
 2 it's beyond the -- first of all, I think it's beyond the scope.
 3 Second of all, I mean, this is their witness that's now
 4 coming up with something else that they didn't bring out on
 5 direct, that I didn't bring out on cross. Specifically after --
 6 twice, because he answered it to Mr. Tabackman and he answered
 7 it to me that there was one incident at the Edelin trial that he
 8 talked about that was the same as one of the incidents here.
 9 Now, because he came up with yet another incident, it
 10 came out of his mouth. It's not something I went into. So I
 11 don't see how this isn't beyond the scope, not to mention it's
 12 completely prejudicial, because I have to go on what he's
 13 saying, that it's the same incident that he had testified about
 14 at Edelin that he testified about here. This is a completely
 15 different incident.
 16 MR. GUERRERO: That was the whole purpose of clearing
 17 it up, Your Honor. And on cross-examination, when he tried to
 18 explain this, Ms. Wicks even said, "Hold up, don't answer
 19 anything. If the government wants to do a redirect and clear
 20 this up, you'll have a chance to do it."
 21 We have a right to clear this up and rehabilitate the
 22 witness about whether or not he was being misled that the two
 23 incidences were one and the same, or whether they're separate
 24 and distinct.
 25 THE COURT: Did you want to add something else?

22 (Pages 14182 to 14185)

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1 MS. WICKS: I cut him off because it was nonresponsive
 2 to my question at that point and I chose not to go into it. So
 3 I don't think the government can now.
 4 THE COURT: I'm going to allow it. Overruled.
 5 (END BENCH CONFERENCE.)
 6 BY MR. GUERRERO:
 7 Q. My question was, was there a different incident that you
 8 were trying to explain that involved June Bug? Is it June Bug?
 9 A. It's Joonie.
 10 Q. And tell us about that.
 11 A. Well, it was one night, it was me, my cousin Anthony, and
 12 Brad, and we was in the alley on Stanton Road. A blue car kept
 13 riding around, so Honky and Cooler was telling us that it was
 14 Tweety and them riding around in the car.
 15 So I had called my cousin on the phone and told him to
 16 come around the way, Mussy. So it was me, Mussy, my cousin
 17 Anthony, and Brad, we was standing in the cut by Monkey Mark
 18 house.
 19 And so three guys was walking towards us, and we was
 20 looking. At first we was saying who it was, because --
 21 MS. WICKS: Objection as to "we" and narrative.
 22 BY MR. GUERRERO:
 23 Q. Could you see who it was?
 24 MR. GUERRRERO: I'll rephrase.
 25 THE COURT: Sustained.

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1 A. At first I couldn't see who it was.
 2 BY MR. GUERRERO:
 3 Q. Did you eventually see who it was?
 4 A. Yeah, eventually. Because when they was coming through the
 5 cut, you know, it was dark. The trees and stuff, we couldn't
 6 see them.
 7 Once they crossed to the alley --
 8 Q. What did you see?
 9 A. The light, it was Joonie, Tweety, and Cool Wop. And by that
 10 time, my cousin already had asked who it was like twice.
 11 So they didn't answer who it was, so my cousin Anthony
 12 said, "If you-all don't say who it is" --
 13 MS. WICKS: Objection.
 14 THE COURT: Sustained.
 15 BY MR. GUERRERO:
 16 Q. Without telling us what Anthony said, what happened next?
 17 A. My cousin start shooting at them.
 18 Q. Shooting at whom?
 19 A. Shooting at Tweety, Cool Wop and them.
 20 Q. And did you see Wop with a gun at that point?
 21 MR. ZUCKER: Objection. Leading.
 22 THE COURT: Sustained.
 23 BY MR. GUERRERO:
 24 Q. Did you see anything in Cool Wop's hand?
 25 A. Yeah.

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1 Q. What did you see?
 2 A. I seen a gun, but I can't tell what type of gun it was or
 3 nothing like that.
 4 Q. How about any of the other guys? Did you see anything in
 5 their hands?
 6 A. Naw, I just seen the gun in Joonie hand and Cool Wop hand.
 7 Tweety, I couldn't really see what he had in his hand.
 8 Q. Now, that's a different incident than what Ms. Wicks was
 9 asking you about --
 10 MR. ZUCKER: Objection. Leading.
 11 THE COURT: Sustained.
 12 A. Yeah, it was --
 13 MS. WICKS: Objection.
 14 MR. ZUCKER: Objection.
 15 THE COURT: Let him put a question.
 16 BY MR. GUERRERO:
 17 Q. Let me ask a better question. Was that the same incident or
 18 a different incident than what Ms. Wicks was asking you about?
 19 A. It was different.
 20 Q. Now let's talk about Mr. Carter's incident, Bradley Carter.
 21 Do you remember that? Mr. Tabackman was asking you about the
 22 number of times you talked to the government about that
 23 incident?
 24 A. Yes.
 25 Q. When was the first time you actually met with me?

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1 A. I think I talked to you on the phone first. Right? That
 2 was last week, I think, last Friday. No -- yeah, last Friday.
 3 Q. Was it in the month of May?
 4 A. Yes.
 5 Q. And before the month of May of 2007, had we ever talked at
 6 all?
 7 A. Naw.
 8 Q. And when you actually came here from -- are you in prison
 9 right now?
 10 A. Yes.
 11 Q. And when you came here, did you and I meet?
 12 A. Yes.
 13 Q. And in that meeting, did we talk about the Bradley Carter
 14 incident?
 15 A. Yes.
 16 Q. Were you ever told to say something --
 17 MR. TABACKMAN: Objection (inaudible).
 18 BY MR. GUERRERO:
 19 Q. -- that you thought was untrue about the Bradley Carter
 20 incident?
 21 THE COURT: Overruled.
 22 THE REPORTER: I didn't hear the objection anyway. I
 23 didn't hear what you said.
 24 MR. TABACKMAN: Leading.
 25 BY MR. GUERRERO:

23 (Pages 14186 to 14189)

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1 Q. You may answer.
 2 A. Yes, we was talking about -- we talked about it.
 3 Q. Were you ever told what to say?
 4 A. No.
 5 Q. Were you ever -- were you ever told what words to testify
 6 about?
 7 A. Naw.
 8 Q. Had you gone into as much detail about the Bradley Carter
 9 incident before when you talked to Mr. Pfleger?
 10 A. Well, I told some details, not all. I just told some. I
 11 basically told him what he wanted. I gave him what he wanted,
 12 what he asked for.
 13 Q. And was he ever really asking about the Bradley Carter
 14 incident in as much detail, or was he focusing on other things?
 15 A. He asked about it, but his focus was mostly on Tommy and
 16 them.
 17 Q. Now, Mr. Tabackman was asking you along the same topic about
 18 whether or not you were trying to be accurate in the Edelin
 19 case. Do you remember that?
 20 A. Yes.
 21 Q. And I think at one point in response to that you said,
 22 quote, "Naw, I wasn't." Do you remember that?
 23 A. I think I do remember that.
 24 Q. Were you telling the truth when you testified in
 25 Tommy Edelin's case?

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1 A. Yes.
 2 Q. Did they focus in that case on Congress Park?
 3 A. They talked about Congress Park a lot, because that's what
 4 started the whole conspiracy --
 5 MR. TABACKMAN: Objection, Your Honor. May we
 6 approach?
 7 THE COURT: No. Rephrase your question.
 8 BY MR. GUERRERO:
 9 Q. Were you asked to give specific details about the same
 10 incidents that we've been talking to you about?
 11 A. Yes. Yes.
 12 Q. And do you recall if all that specific detail came out, or
 13 was it more specific here?
 14 A. No, all of it didn't come out. Some came out --
 15 MR. TABACKMAN: Objection, Your Honor.
 16 A. -- here that didn't come out there, and, I mean, there's
 17 probably still some that didn't come out.
 18 BY MR. GUERRERO:
 19 Q. Did you just say some came out here that did not come out
 20 there?
 21 MR. ZUCKER: Objection.
 22 A. Yeah.
 23 THE COURT: Overruled.
 24 BY MR. GUERRERO:
 25 Q. Was Antwuan Ball standing trial in that case?

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1 MR. TABACKMAN: Objection. Irrelevant.
 2 THE COURT: Overruled.
 3 A. No.
 4 BY MR. GUERRERO:
 5 Q. Was David Wilson, or Cool Wop, one of the defendants in that
 6 case?
 7 A. No.
 8 Q. Was Joseph Jones, or Jojo, one of the defendants in that
 9 case?
 10 A. No.
 11 Q. Was Gregory Bell, or Boy-Boy, one of the defendants in that
 12 case?
 13 A. No.
 14 Q. Let's talk about your five to 15 years that you're serving
 15 time for, a sentence issued by Judge Burgess. Do you remember
 16 that?
 17 A. Right.
 18 Q. How much time do you have left remaining?
 19 A. Five.
 20 Q. And you were asked whether or not you wrote me a letter. Do
 21 you remember that?
 22 A. Right.
 23 Q. And in that letter you are asking for what?
 24 A. A sentence modification.
 25 Q. A sentence modification?

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1 A. Yes.
 2 Q. What do you mean? Explain that.
 3 A. Well, I didn't know what it mean at first. It was based on
 4 talking to a couple of inmates about the way it was said, and I
 5 let them know that I might have to testify.
 6 So knowing that I was going to testify anyway, but my
 7 whole thing is, what can I get out of it if I'm going to
 8 testify? Because I feel as that I shouldn't testify for
 9 nothing.
 10 Q. And so you're seeking a letter from us --
 11 MR. ZUCKER: Objection. Leading.
 12 Q. -- to the judge?
 13 THE COURT: Sustained.
 14 BY MR. GUERRERO:
 15 Q. What is it that you want in the letter from the government?
 16 A. Well, I want a letter for the -- to go to the judge to see
 17 if I can get a sentence modification.
 18 Q. Have you asked for that type of letter before from the
 19 government?
 20 A. No.
 21 Q. Have you ever asked from the government a letter to your
 22 parole board?
 23 A. Yes.
 24 Q. How many have you gotten from the government?
 25 MR. BALAREZO: Your Honor, objection. This has been

24 (Pages 14190 to 14193)

Page 14194

1 asked and answered in direct.
 2 THE COURT: I'll allow it.
 3 A. Two.
 4 BY MR. GUERRERO:
 5 Q. And let's talk about the first one. When you got the letter
 6 from the government the first time, did it help you or did your
 7 sentence remain the same?
 8 MR. BALAREZO: Objection. Asked and answered.
 9 MR. TABACKMAN: Asked and answered.
 10 THE COURT: Sustained.
 11 MR. GUERRERO: Opened up on cross-examination,
 12 Your Honor.
 13 THE COURT: It's covered. Go ahead.
 14 BY MR. GUERRERO:
 15 Q. The second letter that you got, was that from Mr. Pfleger or
 16 from Ms. Petalas?
 17 A. Ms. Petalas.
 18 MR. TABACKMAN: Objection. Asked and answered.
 19 THE COURT: I'll allow it.
 20 BY MR. GUERRERO:
 21 Q. Now, that letter that you asked for when you got it from
 22 Ms. Petalas, had you talked about the Congress Park case to the
 23 government?
 24 A. No. As a matter of fact, I ain't really -- I talked about
 25 it a little bit with Gus on the phone, but I'm trying to

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1 think -- I think I did talk to her. Yeah, I think yeah.
 2 Q. And did you get the letter?
 3 A. I got the letter --
 4 MR. TABACKMAN: Objection. Asked and answered.
 5 MR. BALAREZO: Objection.
 6 A. Yeah, I'm trying to think -- I got the letter --
 7 MR. BALAREZO: Objection.
 8 A. -- she faxed a letter to me.
 9 THE COURT: I'll allow it. Go ahead.
 10 BY MR. GUERRERO:
 11 Q. And after you got the letter -- well, before we even go
 12 there, did you get any promises from the government with respect
 13 to that letter as to what the parole board would do with it?
 14 A. Naw.
 15 Q. And did you get any promises -- now you're seeking another
 16 letter. Right?
 17 A. Yes.
 18 Q. To Judge Burgess. And have you gotten any promises at all
 19 from the government as to what Judge Burgess --
 20 MR. TABACKMAN: Objection. Argumentative.
 21 BY MR. GUERRERO:
 22 Q. -- is going to do?
 23 THE COURT: Let him finish the question. Finish the
 24 question.
 25 BY MR. GUERRERO:

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1 Q. Have you gotten any promises from the government with
 2 respect to that letter as to what Judge Burgess is going to do
 3 with it or not?
 4 THE COURT: The objection is overruled.
 5 A. No, I didn't get no promise.
 6 BY MR. GUERRERO:
 7 Q. And in fact, you've testified for the government on more
 8 than just this case, haven't you?
 9 A. Yes.
 10 Q. And all this time, where have you been?
 11 A. In jail.
 12 Q. In prison?
 13 A. Yes.
 14 Q. You said that in your experience in knowing Antwan Ball,
 15 Antwan Ball and Cool Wop, you characterized them as Cool Wop
 16 always hung under Antwan. Do you remember that?
 17 A. Correct.
 18 Q. Take a look at Government's Exhibit 108.43, marked and
 19 admitted.
 20 MS. WICKS: Objection, Your Honor. May we approach?
 21 THE COURT: Yes.
 22 (BENCH CONFERENCE ON THE RECORD.)
 23 MS. WICKS: Your Honor, I believe it's a photograph
 24 that -- it's in evidence, I believe, but it's a photograph
 25 that's taken in Congress Park, and I believe his testimony was

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1 that he didn't hang out in Congress Park. So showing him a
 2 photograph of defendants taken in Congress Park, I don't
 3 understand what the point of that is, since he testified that he
 4 wasn't there.
 5 THE COURT: I don't even know what's in the photograph.
 6 MS. WICKS: I believe it's a photograph of Antwan and
 7 Mr. Wilson -- I'm sorry, Mr. Ball and Mr. Wilson.
 8 MR. GUERRERO: That's exactly correct, Your Honor.
 9 It's a photograph that corroborates the relationship between the
 10 two. It's already marked and admitted into evidence.
 11 MR. TABACKMAN: Your Honor, it is argumentative.
 12 That's really what its purpose is, is a form of argument.
 13 THE COURT: Overruled. I'll allow it.
 14 MS. WICKS: Your Honor, actually, one more thing. I
 15 think this photograph was seized in 2004, which would be eight
 16 years after this individual was locked up. So I think I would
 17 ask for a recross on that.
 18 THE COURT: No. Overruled.
 19 (END BENCH CONFERENCE.)
 20 BY MR. GUERRERO:
 21 Q. Can you clear the screen there, Mr. Green, if you touch the
 22 lower right-hand corner? If we can pull up 108.43.
 23 Do you see Government's Exhibit 108.43 in front of you?
 24 A. Yes.
 25 Q. Who do you see there?

25 (Pages 14194 to 14197)

Page 14198

1 A. I see Cool Wop and Antwuan.
 2 Q. What is Cool Wop wearing?
 3 A. He wearing a yellow shirt.
 4 Q. Speak up nice and loud. I can't hear you.
 5 A. He wearing a yellow shirt with -- I can't see what that say
 6 on there. He got cornrows in his hair.
 7 Q. And who is standing next to Cool Wop?
 8 A. Antwuan.
 9 Q. And is Antwuan the taller of the two?
 10 A. Yes.
 11 Q. What is Antwuan wearing?
 12 A. An orange shirt, orange T-shirt.
 13 Q. Where is Antwuan's arm?
 14 A. Wrapped around Cool Wop.
 15 MR. GUERRERO: Thank you, Mr. Mazzitelli.
 16 BY MR. GUERRERO:
 17 Q. Let me talk to you about your time at CTF at some point. Do
 18 you remember that?
 19 A. Yes.
 20 Q. You mentioned that while you were at CTF, there were other
 21 people that were cooperating that you recognized. Do you
 22 remember that?
 23 A. Yes.
 24 Q. Were you ever told what to say by anyone else about
 25 Congress Park?

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1 A. Naw.
 2 MR. TABACKMAN: Objection. Argumentative and leading.
 3 THE COURT: Overruled.
 4 BY MR. GUERRERO:
 5 Q. I want to go back to this incident that Ms. Wicks was asking
 6 you about with Wop and Tweety and Spook. Do you remember that?
 7 A. Yes.
 8 Q. I think she was --
 9 MS. WICKS: Objection. Misstates the record.
 10 BY MR. GUERRERO:
 11 Q. Do you remember --
 12 THE COURT: Overruled.
 13 BY MR. GUERRERO:
 14 Q. Do you remember talking about an incident where you saw
 15 those three guys coming out of the cuts?
 16 A. Well, I only seen two. I ain't seen Spook.
 17 Q. I think she was asking you whether or not you actually saw
 18 them shooting. Do you remember that?
 19 A. Yes.
 20 Q. And you said that -- what was your answer whether or not you
 21 saw them shooting?
 22 A. I actually didn't see them shooting, but all you heard is a
 23 lot of gun fire. As soon as the gun fire stopped...
 24 Q. Once the gun fire stopped, who did you see?
 25 A. I seen Tweety first.

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1 Q. And did you see anything in Tweety's hands?
 2 A. Yes.
 3 Q. What did you see?
 4 A. A gun.
 5 Q. Who did you see next?
 6 A. Then I seen Cool Wop run out the alley.
 7 Q. Did you see anything in Cool Wop's hands?
 8 A. Yes.
 9 Q. What did you see?
 10 A. A gun.
 11 Q. How much time had passed --
 12 MS. WICKS: Objection.
 13 BY MR. GUERRERO:
 14 Q. -- between the time you heard the shots and the time you saw
 15 Tweety with the gun?
 16 THE COURT: Basis?
 17 MS. WICKS: I think it's argumentative and asked and
 18 answered numerous times.
 19 THE COURT: Overruled.
 20 BY MR. GUERRERO:
 21 Q. My question was, how much time had passed between the time
 22 you heard the shots and the time you saw Tweety with a gun in
 23 his hand?
 24 A. All that happened in 15, 20 seconds.
 25 Q. How much time had passed between the time you heard the

Page 14201

1 shots and the time you saw Cool Wop with a gun in his hand?
 2 A. Probably a minute. Probably a minute, 30 seconds.
 3 Q. When you saw Tweety with the gun in his hand, was he staying
 4 in that area or going somewhere else?
 5 A. He was running from --
 6 MS. WICKS: Objection. Asked and answered.
 7 THE COURT: Overruled.
 8 BY MR. GUERRERO:
 9 Q. You may answer.
 10 A. He was running from one cut to the next cut.
 11 Q. How about Cool Wop? Was he staying there or was he running
 12 somewhere else?
 13 A. Well, I ain't even know he was there. I just thought it was
 14 just Tweety. But once Tweety ran through the cut --
 15 MS. WICKS: Objection. Nonresponsive.
 16 THE COURT: Put your question.
 17 BY MR. GUERRERO:
 18 Q. When you saw Cool Wop, what did it appear he was doing,
 19 staying there or going somewhere else?
 20 MR. ZUCKER: Objection. Leading.
 21 THE COURT: Sustained. Rephrase.
 22 BY MR. GUERRERO:
 23 Q. When you saw Cool Wop with the gun in his hand, what did you
 24 see him do?
 25 A. Well, ain't see him -- I just seen him running. I just seen

26 (Pages 14198 to 14201)

Page 14202

1 him running from one cut to the alley.
 2 Q. Was anything affecting your perception that day?
 3 A. No.
 4 Q. Could you see clearly?
 5 A. Yes.
 6 Q. Was there anything blocking your view?
 7 A. No.
 8 MR. TABACKMAN: Objection. Asked and answered.
 9 MS. WICKS: Objection. Beyond the scope and asked and
 10 answered.
 11 THE COURT: Overruled.
 12 BY MR. GUERRERO:
 13 Q. What was your answer?
 14 A. No, wasn't nothing blocking my view.
 15 Q. Was there any drug that you were on that impaired your
 16 perception?
 17 MR. ZUCKER: Objection. Opinion.
 18 THE COURT: Overruled.
 19 A. No.
 20 BY MR. GUERRERO:
 21 Q. Let's talk about the incident that Mr. Jones' attorney,
 22 Mr. Martin, was asking you about where -- an incident with Teeny
 23 Man. Do you remember that?
 24 A. Yes.
 25 Q. And I think Ms. Wicks was also asking you that now you're

Page 14203

1 saying that you remember Jojo being in the car. Do you remember
 2 that?
 3 A. Yes.
 4 Q. And why is it that you remember now that Jojo was in the
 5 car?
 6 A. It's not that I remember, it's I ain't never forget. It's
 7 just at that point in time when we was talking about it,
 8 probably I just ain't mention it.
 9 MR. GUERRERO: Court's indulgence.
 10 BY MR. GUERRERO:
 11 Q. Let's talk about Mr. Balarezo's cross-examination. He was
 12 asking you whether or not you had any loyalty to the guys in the
 13 Edelin case in which you testified. Do you remember him asking
 14 you that topic?
 15 A. Yes.
 16 Q. And you said it was a problem for you when you testified
 17 there. Do you remember that?
 18 A. Yes.
 19 Q. Explain.
 20 A. It was a problem because I grew up with them guys. Not --
 21 you could just put Tommy and his father to the side, and Brian
 22 Bostick, you can put them to the side. The rest of the guys
 23 that was on the case, Wah-Luck, Funky, Blue, all of them, I
 24 basically grew up around them, you know. So it's like we come
 25 up together.

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1 Q. And then Mr. Balarezo asked you about your loyalty to
 2 Congress Park. Do you remember that?
 3 A. Correct.
 4 Q. And you --
 5 MR. BALAREZO: Objection, Your Honor. The question was
 6 that he did not have any loyalties to Congress Park.
 7 THE COURT: Rephrase.
 8 BY MR. GUERRERO:
 9 Q. Let me rephrase exactly. The question was by Mr. Balarezo
 10 that you did not have any loyalty to Congress Park.
 11 A. Well, growing up with Cool Wop and them --
 12 MR. BALAREZO: Objection. Nonresponsive.
 13 MS. WICKS: Objection. Nonresponsive.
 14 THE COURT: Overruled.
 15 A. Being around them, growing up and going to school and
 16 hanging in the center on 15th Place, it used to be Cool Wop,
 17 Truck, Taneal, Drano, sometimes Big Head Dave, all them --
 18 Q. Is this association that you saw with your own eyes?
 19 MS. WICKS: Objection. Leading.
 20 MR. ZUCKER: Characterization.
 21 MR. BALAREZO: It's a narrative at this point.
 22 MS. WICKS: And it's not responsive to the previous
 23 question.
 24 THE COURT: Put your question.
 25 BY MR. GUERRERO:

Page 14205

1 Q. Who did you see hanging around Congress Park that you recall
 2 seeing with your own eyes?
 3 MS. WICKS: Objection.
 4 THE COURT: Overruled.
 5 A. I used to see -- well, the main ones I always used to see
 6 together --
 7 MR. BALAREZO: Objection.
 8 THE COURT: Basis?
 9 MR. BALAREZO: It's vague, nonresponsive. It's an
 10 opinion.
 11 THE COURT: Overruled.
 12 BY MR. GUERRERO:
 13 Q. You may answer.
 14 A. I always used to see Jojo and Antwuan together. Cool Wop,
 15 Drano, Truck, Taneal, and all them used to be together.
 16 Q. Now, you testified that now, as you're testifying against
 17 some people in Congress Park, it's still a problem. Do you
 18 remember testifying to that?
 19 A. Yes.
 20 Q. And why is it still a problem for you?
 21 A. Because -- I mean, you got some people from Congress Park
 22 that I don't have a beef with. I mean, for real, I never had a
 23 beef with them. It's just that, by me hanging with Squid and
 24 Antwuan beefing with Squid. So the younger group that hang with
 25 Antwuan is beefing with the younger group with Squid.

27 (Pages 14202 to 14205)

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1 MR. TABACKMAN: Objection. Nonresponsive.
 2 THE COURT: Narrative. Go ahead. Put your question.
 3 BY MR. GUERRERO:
 4 Q. Let me just ask you to focus on you, Mr. Green. Why is it
 5 still a problem for you to testify?
 6 MR. TABACKMAN: Objection. Relevance.
 7 THE COURT: Overruled.
 8 A. It's a problem for me because, for one, I still have family.
 9 MR. ZUCKER: Objection.
 10 MR. TABACKMAN: Objection.
 11 THE COURT: Come on up.
 12 (BENCH CONFERENCE ON THE RECORD.)
 13 MR. TABACKMAN: This is just purely inflammatory at
 14 this point. There's no basis whatsoever for a claim that his
 15 family has been in any way threatened by these people, or --
 16 they didn't even know he was coming on the stand.
 17 THE COURT: Mr. Guerrero, do you know what the answer
 18 is going to be in connection with that comment?
 19 MR. GUERRERO: I wasn't trying to elicit -- I don't
 20 think there's any testimony that's going to be that he's been
 21 threatened at all. I think he's just trying to say that he
 22 still has friends in Congress Park, like he testified earlier
 23 about Boy-Boy, that he had no beef with. That's all he was
 24 trying to get out, and then they objected to it.
 25 THE COURT: Well, I don't know what he's going to say.

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1 He said, "I still have family," when you asked him, "What's the
 2 problem with testifying against these people?"
 3 So we potentially are running into the same problem we
 4 had with an earlier witness.
 5 MR. GUERRERO: I can move on, Your Honor. I'm not
 6 going to try to make a big deal about this. It was opened up on
 7 cross-examination, and I can move on. I don't think he's, any
 8 response that he's made right now has crossed any line to being
 9 prejudicial. All he said was, he finds it difficult because of
 10 family, period.
 11 THE COURT: Well, the problem is, the inference can be
 12 drawn that his family is vulnerable to something. So that's
 13 what I want to avoid having come out, if it is not based upon
 14 any evidence of behavior by these defendants or anybody acting
 15 at their behest.
 16 So I'm not shutting you down from inquiring about the
 17 issue that was raised on cross, about problems he may have now
 18 about testifying. But unless you can tell me that there's a
 19 basis for his -- any testimony about his family being in danger
 20 because of these defendants or their associates, I may have to
 21 give an instruction if I let you have him continue his answer.
 22 MR. GUERRERO: And I'm not going to ask to continue the
 23 answer, because I'm not really going down that road. I can just
 24 move on.
 25 MR. TABACKMAN: We would ask for an instruction in any

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1 event, Your Honor, and that the last comment be stricken. It's
 2 out there: "My family. I have a problem because of my family."
 3 Or, "I have family." And this jury hears that, and everybody
 4 understands, given that we're talking about violence and
 5 behavior.
 6 THE COURT: If you're not going to proceed down that
 7 road, then I'll instruct the jury to disregard the last question
 8 and answer.
 9 MS. WICKS: If I can also just put on the record, in
 10 front of the jury when we came to the bench, Mr. Green started
 11 smiling and almost like shaking his shoulders like he's dancing
 12 in his seat right after the answer.
 13 I want to put that on the record. I don't know if it
 14 was in response to something that was occurring, because I was
 15 up here at the bench looking across at him. So I don't know
 16 what was happening out there, but I'm just concerned.
 17 (END BENCH CONFERENCE.)
 18 THE COURT: Ladies and gentlemen, I'm going to strike
 19 the last question and answer, so I'll direct you to disregard
 20 the last question and answer that was just put.
 21 BY MR. GUERRERO:
 22 Q. Let's talk about, along the same cross-examination by
 23 Mr. Balarezo about your trying to get a lesser sentence, and
 24 that's why you're testifying now. Do you remember that?
 25 A. Yes.

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1 Q. And Mr. Balarezo was asking you, if you get caught in a lie
 2 then that exposes you to perjury. Do you recall that?
 3 A. Yes.
 4 Q. And what is perjury to you?
 5 MR. ZUCKER: Objection. Asked and answered.
 6 MR. TABACKMAN: Objection. Asked and answered.
 7 THE COURT: Overruled.
 8 MR. TABACKMAN: He went into it on direct examination,
 9 Your Honor.
 10 THE COURT: I've overruled the objection.
 11 BY MR. GUERRERO:
 12 Q. What is perjury to you?
 13 A. Perjury is when a person lie to the court of law.
 14 Q. And if you lie to the court of law, would that give you an
 15 exposure to more prison time than what you already have hanging
 16 over your head?
 17 A. It can, yeah.
 18 Q. Is that something that you're willing to do?
 19 A. Naw.
 20 Q. Ms. Wicks started off with your understanding of a
 21 cooperation agreement. Do you recall that?
 22 A. Yes.
 23 Q. As you sit here today, do you have a cooperation agreement
 24 with the government?
 25 A. No.

28 (Pages 14206 to 14209)

Page 14210

1 MR. GUERRERO: Court's indulgence.
 2 BY MR. GUERRERO:
 3 Q. Let's talk about Mr. Beane's cross-examination. He was
 4 asking you why it was that you would buy crack cocaine from
 5 Boy-Boy between 1993 and '96. Do you recall that?
 6 A. Yes.
 7 Q. Why did you buy crack cocaine from Boy-Boy?
 8 A. It's no reason why, because it's like --
 9 MR. BEANE: Objection, Your Honor. He said there's no
 10 reason why. That answers the question.
 11 THE COURT: Overruled.
 12 BY MR. GUERRERO:
 13 Q. Go ahead, please answer.
 14 A. Like my cousin, I used to get coke from my cousin. I used
 15 to get coke --
 16 MR. TABACKMAN: Objection. Nonresponsive.
 17 THE COURT: Overruled.
 18 A. The answer, what I'm trying to get to is, if I see Boy-Boy
 19 at the store, I speak to him, say, "What's up?" I might have
 20 \$100 in my pocket, \$50. I can tell him, "Give me a wholesale,"
 21 and he give me a wholesale. Basically, he double my money.
 22 So it's not like I go to him on a regular basis. It's
 23 that when I do run into him, I always get a wholesale from him.
 24 It ain't like I beeps him, I call him or none of that, naw.
 25 Q. And now I would like to switch focuses on this person named

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1 Dale. Ms. Wicks was asking you about this person named Dale.
 2 Do you recall that?
 3 A. Yes.
 4 Q. And she was asking you about height and weight and physical
 5 characteristics of Dale. Do you remember that?
 6 A. Yes.
 7 Q. If you saw Dale and Wop side by side, would you be confused
 8 as to who is who?
 9 A. Naw.
 10 Q. Was Dale involved in the shooting where Squid and Sabrina
 11 over on Stanton Road, or was it Wop?
 12 A. It was Cool Wop.
 13 Q. Any doubt in your mind?
 14 A. No.
 15 Q. How about the cut where the three guys, with Spook and
 16 Tweety and Wop, where you didn't see them shooting but you saw
 17 guns in their hands?
 18 A. Right, right.
 19 Q. Was that Wop or Dale?
 20 A. It was Cool Wop.
 21 Q. Is there any doubt in your mind that it was Cool Wop versus
 22 Dale?
 23 A. No.
 24 Q. Was Dale even out there?
 25 A. I think Dale got locked up. I know Dale came through a

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1 couple of times shooting, but it wasn't at us. See, the thing
 2 was, Dale was with Tweety and them. But the thing was, Dale was
 3 more beefing with some of the other guys was on 15th, Rocky and
 4 them. He wasn't actually shooting at us. He was shooting at
 5 Rocky, Suda (ph), Dada (ph), and them. He wasn't shooting at
 6 us. He never shot at us, not that I know of.
 7 Q. How about the incident where Antwuan and Wop are in a car,
 8 and you and JJ are in a car? Do you remember that?
 9 A. Yes.
 10 Q. Was that Wop, or was that Dale?
 11 A. That was Cool Wop.
 12 Q. And Mr. Balarezo was asking you whether or not you could see
 13 what is was that Wop had in his hand. Do you remember that?
 14 A. Yes.
 15 Q. And he actually demonstrated for the jury by putting his
 16 hand in his pocket. Do you recall that?
 17 A. Yes.
 18 Q. When you saw Wop put his hand in his pocket, describe what
 19 you saw in that pocket, or from the outside.
 20 A. Well, I mean, you could tell when somebody got a gun on
 21 them --
 22 MS. WICKS: Objection. Nonresponsive.
 23 THE COURT: Overruled.
 24 A. You can tell when somebody got a gun on them. When they
 25 stick their hand in they pocket, and they aggressive, that's

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1 letting you know that they got something. Then plus, when you
 2 look at they pocket, you can see the print of the gun.
 3 BY MR. GUERRERO:
 4 Q. Let me pause you right there. You just said when you look
 5 at the pocket, you can see the print of the gun?
 6 A. Yes.
 7 Q. Is that what you saw that day?
 8 A. Yes.
 9 MR. ZUCKER: Objection.
 10 THE COURT: Overruled.
 11 BY MR. GUERRERO:
 12 Q. Describe the print of the gun that you saw.
 13 A. It was a big gun. Because his pants, it was like you could
 14 see the point from the bottom of the pocket. It was like
 15 sticking out. So it was more as like, he sticking his hand in
 16 his pocket to either get a good grip on the gun or straighten
 17 the gun up.
 18 MR. BALAREZO: Objection. Speculation at this point,
 19 if it matters.
 20 THE COURT: Put your next question.
 21 MR. GUERRERO: Thank you, Your Honor. I don't have
 22 anything further.
 23 MS. WICKS: May we approach, Your Honor?
 24 THE COURT: Beg your pardon?
 25 MR. GUERRERO: Nothing further, Your Honor.

29 (Pages 14210 to 14213)

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1 MS. WICKS: May we approach, Your Honor?
 2 THE COURT: Yes.
 3 (BENCH CONFERENCE ON THE RECORD.)
 4 MS. WICKS: Your Honor, the incident that he brought up
 5 during my cross, and that Mr. Guerrero went into, when he
 6 testified in the Edelin matter, he said it was Tweety, Joonie,
 7 and Pete. So I would ask for recross on that distinct issue.
 8 THE COURT: Denied.
 9 (END BENCH CONFERENCE.)
 10 THE COURT: The witness may be excused.
 11 Announce your next witness.
 12 MR. GUERRERO: Your Honor, the government calls John
 13 Ewing.
 14 (Oath administered by Courtroom Deputy.)
 15 (JOHN EWING, GOVERNMENT witness, having been duly sworn
 16 testified as follows:)
 17 DIRECT EXAMINATION
 18 BY MR. GUERRERO:
 19 Q. Good afternoon, sir.
 20 A. Hello.
 21 THE COURT: Hold on one second.
 22 Counsel, approach.
 23 Can I ask you to have a seat on that chair over there?
 24 Counsel, approach.
 25 (BENCH CONFERENCE ON THE RECORD.)

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1 THE COURT: The juror has mentioned that she knows the
 2 witness. I just want to ask, how do you know him and how well?
 3 JUROR: My grandson's uncle and, I mean, we're not
 4 tight, tight, tight, but --
 5 THE COURT: What we can probably do is just take a
 6 break so we can have you sit. You don't have to stand and tell
 7 us what you know. Okay? Why don't you just go back to your
 8 seat, and we'll excuse the jurors.
 9 JUROR: Okay.
 10 THE COURT: Hold on one second.
 11 (END BENCH CONFERENCE.)
 12 THE COURT: Ladies and gentlemen, this is probably a
 13 propitious time to break for the day, so we'll go ahead and
 14 break. Let me ask you to come back tomorrow promptly at
 15 9:00 o'clock. Take your notes and leave them in the jury room,
 16 and don't talk about the case.
 17 Have a safe trip home. We'll see you tomorrow morning
 18 at 9:00. Thank you.
 19 (Jury out at 4:52 p.m.)
 20 THE COURT: Let me excuse you for the evening, but ask
 21 that you come back tomorrow morning at 9:00 a.m.
 22 All right. You-all may be seated. Thank you,
 23 Juror 14, temporarily Juror 1. Why don't you just repeat for us
 24 if you can how you know the witness and how close, if at all,
 25 you are to him.

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1 JUROR: He's my grandson's uncle. I'm not really close
 2 to him. I've met him over the last five -- my grandson will be
 3 five this year. The last past years. I don't see him very
 4 often. I don't talk to him at all. So...
 5 I heard the name last week, but I had to put a face
 6 with a name before I say something. And he walked in, and I
 7 know, that's Johnny.
 8 THE COURT: How frequently do you see him?
 9 JUROR: I haven't seen Johnny, I know, in the last
 10 two years. He's not one that frequents my daughter's house,
 11 because my daughter and his brother no longer together, but they
 12 do have a baby together.
 13 THE COURT: Now, who has the baby together?
 14 JUROR: My daughter and his brother.
 15 THE COURT: I see. All right. Do you know how
 16 frequently the witness sees your daughter?
 17 JUROR: Not very often. Not often, not at all, believe
 18 it or not. When my grandson goes, they come pick him up and he
 19 goes to the father's house. He doesn't come over there.
 20 THE COURT: All right. Have you spoken about him to
 21 your daughter or her baby's father?
 22 JUROR: No.
 23 THE COURT: Recently?
 24 JUROR: No. I don't even talk to the baby's father,
 25 unless he calls and I happen to answer the phone. Other than

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1 that, I have no conversations with him.
 2 THE COURT: All right. If Mr. Ewing testifies as a
 3 witness, would you have difficulty listening to his testimony
 4 with an open mind?
 5 JUROR: No, I would not.
 6 THE COURT: If he were to testify as a witness, would
 7 you be able to listen to the questions and answers elicited by
 8 the government, as well as by all the defense lawyers?
 9 JUROR: Yes, I would.
 10 THE COURT: In other words, if there's any effort by
 11 any lawyer to elicit information from him, is there anything
 12 about your relationship to him that would cause you
 13 automatically to not believe what he says?
 14 JUROR: No.
 15 THE COURT: Is there anything about your relationship
 16 to him that would cause you to automatically credit or believe
 17 anything he says?
 18 JUROR: No.
 19 THE COURT: If the lawyers attempted, for example on
 20 cross-examination, to question him in such a way as to challenge
 21 the believability of what he is saying, would you be able to
 22 listen with an open mind to both the questions and the answers
 23 put to Mr. Ewing?
 24 JUROR: Yes, I would.
 25 THE COURT: Even though he has this distant

30 (Pages 14214 to 14217)

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 : **Criminal No. 05-CR-100-2 (rwr)**
 v. :
 :
 DAVID WILSON :
 :
 _____ :

SUPPLEMENT TO MOTION FOR A MISTRIAL

David Wilson, by and through undersigned counsel, respectfully moves this Honorable Court for a mistrial for the presentation of perjured testimony in the presentation of re-direct testimony of Damien Green. In support of this motion, counsel states the following:

By mail sent June 11, 2007 from Tommy Edelin's current (appellate) counsel, counsel received a copy of Damien Green's prior grand jury¹ on September 29, 1998. Therein, Mr. Green does testify about one of the incidents he testified about on direct and additionally, yet again, similar to his trial testimony in the Edelin matter, testified about the Tweety and Junie incident, without mentioning Mr. Wilson's name or nicknames. See Exhibit 3 at 66-68. He also referred to "Cootie" as the person with Spook and Tweety when running through the cuts, See Exhibit 3 at 30-33; in the incident at our trial he indicated that it was Coolwop and describes the incident quite differently. In fact, to counsel's recollection, he never referred to Mr. Wilson as Cootie in the trial before this Court.

In addition, the nondisclosed Grand Jury indicates several other shootings Mr. Green was involved with, other than those he plead guilty, in addition to another gun recovered from his grandmother's house on September 5, 1996 when he was arrested for trying to kill Ira Clayton. See

¹ Prior to his testimony, the government disclosed no grand jury in the Edelin matter. Counsel has been given a copy of Mr. Green's grand jury in the Edelin matter for two prior dates but Mr. Edelin's current counsel could not locate the third date in the boxes he had received from Mr.

Exhibit 5 at 80.

WHEREFORE for these grounds, grounds raised at any hearing on the defendant's motion, and any other grounds deemed meritorious by the Court, counsel and Mr. Wilson request a mistrial in this matter.

Respectfully Submitted

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Counsel for David Wilson

Edelin's trial counsel.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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:
IN RE: :
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POSSIBLE VIOLATIONS OF :
:
21 U.S.C. 846, :
:
18 U.S.C. 1962 (RICO) :
:
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Grand Jury Room No. 2
United States District Court
for the District of Columbia
3rd and Constitution, N.W.
Washington, D. C. 20001

Tuesday, September 29, 1998

The testimony of DAMIEN GREEN was taken in the
presence of a full quorum of the Grand Jury 97-5, impaneled on
December 5, 1997, commencing at 10:15 a.m., before:

MICHAEL VOLKOV
STEPHEN PFLEGER
Assistant United States Attorneys

Diversified Reporting Services, Inc.
1025 VERMONT AVENUE, N.W. SUITE 1250
WASHINGTON, D.C. 20005
(202) 296-2929

9/98D

P R O C E E D I N G S

Whereupon,

DAMIEN GREEN

was called as a witness and, having been first duly sworn by the Foreperson of the Grand Jury, was examined and testified as follows:

EXAMINATION

BY MR. PFLEGER:

Q Good morning, Mr. Green.

A Good morning.

Q Mr. Green, the last time you were here, we were talking about a beef or a war between the Stanton Terrace crew and the people who are from your neighborhood, the 1-5 mob or the 15th Place crew. Do you recall that?

A Yes.

Q Okay. We had talked a little bit the last time about who the members of the rival Stanton Terrace crew were. And we were about to start into some of the violence that had started in March of 1996 between the two crews.

And so we're just going to go through all of those events today. Okay?

A Yeah.

Q All right. Now, again, I need you to speak up loudly, so that the lady all the way in the back can hear you. Okay. And all of your answers need to be oral. All right.

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1 A Okay.

2 Q All right. Now, do you know a person by the name of
3 -- well, let me just ask you this way. What kicked off the
4 beef between Stanton Terrace and the members of the 1-5 mob in
5 1996? What event happened that kicked off that beef?

6 A A dude named Tweety and his brother, Spook, and
7 their friend, Willie, had robbed a friend of mine's cousin.
8 That's what kicked it off. They had robbed a dude named Lala
9 and shot at -- and Pop.

10 Q Now, let's just back up here for a second. This
11 person -- or the people you talked about, Willie, Spook and
12 Tweety, which crew were they associated with?

13 A Stanton Terrace crew.

14 Q The Stanton Terrace crew?

15 A Mm-hmm.

16 Q All right. And the people, Pop and Lala, which crew
17 are they associated with in terms of the people that they're
18 with?

19 A The 1-5.

20 Q One-five. Okay. Now, you said there was a robbery
21 of Pop and Lala?

22 A Yeah, there was a robbery.

23 Q And the people who were supposed to be responsible
24 for that were Willie, Spook and Tweety?

25 A Right.

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1 Q Okay. Now, where were you, if you know, when this
2 actual robbery took place or when the robbery of Pop and Lala
3 happened?

4 A I wasn't around there, but me and Wah-Luck, we had
5 pulled on 15th Place. Tweety flagged us down, told Wah-Luck
6 that he know what happened to his nephew. So, I pulled off.

7 And Wah-Luck told me to take him back.

8 Q Hang on one second now. Let's go back. So, you
9 weren't actually present when the robbery happened, correct?

10 A Uh-uh.

11 Q All right. You said -- was this on the same night
12 of the robbery and the shooting, that you actually see Tweety?

13 A On the same night.

14 Q Okay. Had you heard -- prior to meeting up with
15 Tweety, had you heard anything about this robbery or shooting?

16 A I ain't hear nothing about it. When we came back,
17 that's -- Tweety flagged us down and was telling us about it.

18 Q So, Tweety was the first person to actually say
19 anything to you then about this robbery and shooting?

20 A Right.

21 Q Okay. Now, so tell us what happened. You and Wah-
22 Luck are in a car together?

23 A We was in a car together.

24 Q Whose car?

25 A Wah-Luck's car.

1 Q Which car was this?

2 A It was an LTD.

3 Q What color?

4 A Gray.

5 Q Was anybody else in the car with you, besides Wah-
6 Luck and yourself?

7 A Just us two.

8 Q Were either of you armed as far as you know?

9 A No.

10 Q Okay. Now, do you remember where you were coming
11 from?

12 A I don't remember exactly. Probably from the liquor
13 store. I don't remember exactly where we was coming from.

14 Q Okay. But, as you're driving what street does
15 Tweety --

16 A Fifteenth Place.

17 Q Okay. So, when you're coming down 15th Place,
18 Tweety waves you over?

19 A Yeah.

20 Q Okay. And what happens? Does Tweety get in the car
21 or does Tweety get -- how does that happen?

22 A He came on my side. And Wah-Luck was on the
23 passenger side. He told Wah-Luck that he wanted to holler at
24 him because he know who did that to his nephew -- I mean, his
25 cousin.

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1 So, I pulled off. And Wah-Luck told me take -- take
2 him back. So, I took him back.

3 Wah-Luck got out of the car and talked to him. Then
4 he got back in the car. I pulled off. And Wah-Luck said he
5 going to kill him.

6 Then we pulled on Congress, got out of the car.

7 Q Okay. Let's slow up for a second here. When Tweety
8 first comes up to the car, he's talking to the Wah-Luck
9 through the driver's window across you; is that right?

10 A Right.

11 Q All right. And he's basically telling Wah-Luck, I
12 know what happened to your cousin?

13 A Yeah. He was telling him that he know who -- you
14 know, was with it, just shot him, so.

15 Q Was it your impression that Wah-Luck already knew
16 what had happened --

17 A No.

18 Q -- or that he didn't know?

19 A Wah-Luck didn't know. None -- me or Wah-Luck ain't
20 know. He just came to the car and told us. So, he was like,
21 he know who was with it and all that. So, Wah-Luck -- and we
22 pulled off.

23 Q Did Wah-Luck ask him, what are you talking about?
24 Or, what's going on? Or, did Tweety just walk away? Or, what
25 happened?

1 A No. He told us -- he told us that Wah-Luck's cousin
2 got shot.

3 Q Okay.

4 A But, he telling -- he told -- he told Wah-Luck that
5 he know who was with it. So, he say, I'm going to holler at
6 you. So, when we pulled off, Wah-Luck said, take me back.

7 Q Okay. Now, when he told you that -- or when Tweety
8 says to Wah-Luck about his cousin being shot, did he identify
9 which cousin? Did he say, Pop or Lala?

10 A He said, Lala.

11 Q And is Lala, in fact, Wah-Luck's cousin, to your
12 knowledge?

13 A He's his cousin, yeah.

14 Q All right. Now, when he pulls off, why does he ask
15 you to take him back to see Tweety, do you know?

16 A Because Tweety told him he going to -- Tweety told
17 him that he know who was with it. He ain't tell us who was
18 with it right there when he came to the car. He just said, he
19 going to holler at him. So, when we pulled off, Wah-Luck
20 said, take me back.

21 Q So, Wah-Luck wanted to find out right away who was
22 with it.

23 A Who was with it.

24 Q So, then when you pulled back, is Tweety in the same
25 area?

1 A No. He was -- he was in -- on the same street, but
2 he was in a cut there. He was in the cut.

3 So, when I went back, Wah-Luck went in the cut and
4 came back out of the cut, jumped back in the car. I pulled
5 off. He said that he going to kill him.

6 Q Why did he say he was going to kill Tweety at that
7 point?

8 A I guess Tweety was lying or something.

9 Q What did Wah-Luck say to you when he got back in the
10 car, besides, I'm going to kill him?

11 A I'm going to kill him. Then we pulled on Congress,
12 got out, went in his cousin's grandmother's house. His uncles
13 and aunts and everybody was in there saying he was in the
14 hospital.

15 Q Saying who was in the hospital?

16 A Lala, that -- they was saying that Tweety and Spook
17 and Willie did it. Then they was saying -- I forgot who
18 exactly the people was, but the people -- some young person
19 sitting in my car and they seen Tweety, Spook and Willie walk
20 past my car and went through the cut. And --

21 Q Now, you're talking about this person is talking
22 about what happened at the time of the actual robbery?

23 A Yeah, but they ain't see the robbery. They just
24 know that before they heard the shot, they came past my car
25 and went through the cut. And then they heard the shots. And

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1 that's when they was like, Wah-Luck -- that's when they -- I
2 mean, that's when they was like, Pop and Lala got shot. They
3 figured it was them, because them the only ones that went
4 through the cut.

5 And Tweety's brother, if you see him anywhere down
6 by our way, he either coming to see his brother or he coming
7 to rob somebody or he up to something, so.

8 Q You're talking about Spook.

9 A Spook.

10 Q Spook was known in your neighborhood as somebody who
11 would rob people?

12 A Yeah.

13 Q Okay. All right. So, basically, the people from
14 the 1-5 mob concluded that Tweety, Willie and Spook were
15 responsible for the shooting of Pop and Lala because they had
16 seen them walk into the neighborhood shortly before the
17 shooting.

18 A Right.

19 Q Now, did you have any idea how badly shot either Pop
20 or Lala was at that point?

21 A I think Pop got shot probably in his back. Lala got
22 shot in the shoulder, I think.

23 Q Did either of them stay in the hospital for any
24 length of time?

25 A Pop stayed in the hospital for a long time. He was

1 messed up. Lala, I think he came out like the next day or two
2 days. Pop stayed in for at least probably over six months.

3 Q Did you have a conversation with either Pop or Lala?

4 A One time I was in the hospital and I was talking to
5 Pop. And he had his name on a John Doe. And he was just
6 like, they was in the car smoking. And they came over to the
7 car and told him to give up the money. But they told him to
8 get out of the car and lay down.

9 They took the money and I think they took some
10 marijuana. And they just shot at them and then took off
11 running while they was on the ground.

12 Q So, they took money and drugs from them?

13 A Mm-hmm.

14 Q And did Pop indicate whether or not he knew who it
15 was that had actually done it?

16 A He was saying that it was Spook and Willie. I
17 didn't hear him mention Tweety.

18 Q Did he indicate whether or not they had covered
19 their faces at the time of the robbery?

20 A I don't remember him telling me that, cover up their
21 faces. I don't think they covered up their faces.

22 Q Would -- would Pop know who Tweety, Spook and Willie
23 are?

24 A Yeah, because Pop used to be up there with them.

25 Q All right. Do you know Pop's real name, by the way?

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9/980

1 A I don't know his real name. No, I don't know his
2 real name.

3 Q Do you know Lala's real name?

4 A I just know his real name, LaSalle.

5 Q LaSalle?

6 A LaSalle.

7 Q Okay. Now, did you ever have a conversation with
8 Lala about what happened at the time of the robbery?

9 A He came out of the hospital. And he told me about
10 the exact same thing Pop told me, that they came up on the car
11 and they was in there smoking. He said, when he turned
12 around, he just seen somebody at the door telling him to get
13 out of the car. That was it.

14 Q Now, going back for a second, when you -- after Wah-
15 Luck gets back in the car and says, I'm going to kill Tweety,
16 and you go over to Congress, okay. While you're there, what's
17 everybody talking about? Is everybody talking about the
18 robbery?

19 A We went into Lala's grandmother's house. We wasn't
20 -- we wasn't exactly on Congress. We just pulled on Congress
21 and parked and went inside the cut into Lala's grandmother's
22 house. And we was in there with his grandmother and aunts and
23 uncles and stuff.

24 So, we was in the kitchen, me, Wah-Luck, his uncles.
25 And they were just like -- they were saying that Tweety and

1 them did it. So, Wah-Luck was like, he going to kill them.
2 And that was that.

3 Q Was anybody else from your crew or from the 1-5
4 there besides you and Wah-Luck?

5 A It was just me, Wah-Luck, Lala's Uncle Mark, Honky
6 and Cooler. And that was it.

7 Q Now, after that, where do you go after that -- after
8 you were meeting there at that house; do you remember?

9 A I'm not familiar right now.

10 Q Okay. You can't remember where you went after that?

11 A I can't remember right now.

12 Q When is the first shooting that happens after the
13 robbery of Pop and Lala? Not so much when, but what was it
14 that happened? What was the first shooting? Can you tell us
15 about that?

16 A We was at a party. And --

17 Q Now, whose party is this?

18 A A girl named Chante.

19 Q And where is the party taking place?

20 A Stanton Road.

21 Q All right. Is this in your neighborhood of Stanton
22 Dwellings?

23 A Mm-hmm.

24 Q Okay. And who all is invited to this party?

25 A Everybody.

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1 Q Everybody from the neighborhood?

2 A Everybody, yeah, from the neighborhood, from other
3 neighborhoods, just come to the party.

4 Q And are you at this party yourself?

5 A Right.

6 Q Is that a yes?

7 A Yeah.

8 Q All right. So, tell us what happens while you're at
9 the party.

10 A I was inside the party, but I came outside. And I
11 seen Tweety outside or I fixed me a cup of liquor. I went
12 back in the house. And I was in the house with Tweety's
13 brother.

14 Q What's his name?

15 A Spook. He was cooking Oodles o' Noodles.

16 Q Spook was cooking Oodles o' Noodles?

17 A Yeah, on the stove. And -- so, that's when I know
18 Wah-Luck -- at that time, while I was coming back in the
19 house, Wah-Luck was walking up the alley.

20 And Tweety didn't know who it was. So, Tweety asked
21 a friend of mine's named Mark, who was that?

22 Mark was telling him it was a dude named K.C. that
23 fix on cars.

24 So, Tweety was like, nah, that ain't him.

25 So, at the time, Wah-Luck must have seen Tweety was

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1 looking at him. So, Wah-Luck pulled a shotgun out.

2 Q Where did he -- where did he get the shotgun from?

3 A I think he got it from Blue. He started shooting at
4 Tweety. Tweety started shooting back. And then Tweety ran
5 through the cut. Then he came back and started shooting.
6 That's when J.J. was shooting with Wah-Luck at Tweety.

7 Q Okay. Let's -- let's stop for a second and try to
8 break this down. Okay. You got a lot of people shooting at a
9 lot of people. All right. You're outside, right?

10 A Right.

11 Q Now, is this all taking place before you go back in
12 and see Spook cooking Oodles o' Noodles?

13 A This -- it took place like -- I'd say soon as I get
14 in the living room. Like -- like soon as I get in the living
15 room. So, at that time --

16 Q Okay. Wait a second. Are you able to actually see
17 all of what you're telling me or are you telling --

18 A I could -- I can see -- when I came back out the
19 front door, I could see J.J. shoot -- and Wah-Luck shoot.
20 But, at first, I ain't see Wah-Luck shoot. I heard the shots.
21 At that time, it was just Wah-Luck's gun going off.

22 Q Okay. Wait a second. What kind of gun does Wah-
23 Luck have when you see him shoot?

24 A It was a pump shotgun.

25 Q A pump shotgun?

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1 A Mm-hmm.

2 Q Do you know what a pump shotgun sounds like?

3 A Yeah, like a cannon.

4 Q Have you fired a pump shotgun yourself?

5 A I fired a 410 shotgun, a sawed-off. But it wasn't
6 like a shotgun that you cock back. It was just a sawed-off.
7 You put the shells in and just shoot.

8 Q Okay. But you're familiar with what -- a pump
9 -- the pump shotgun that you're talking about sounds like,
10 right?

11 A Yeah.

12 Q All right. So you're inside when the -- when you
13 hear the first shot, right?

14 A Yeah.

15 Q What is the first shot? Is it from a pump shotgun,
16 a pistol, what?

17 A From a pump shotgun.

18 Q All right. So, the first thing you hear is a shot
19 from a pump shotgun, right?

20 A Yeah.

21 Q All right. Now, do you run back to the door after
22 hearing the first shot?

23 A I ain't -- when I heard the first shot, I was
24 already in the living room. Then everybody started running
25 out the party. I went to the front door and was looking down

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1 the cut. I seen J.J. and Wah-Luck shoot like up the alley.

2 So, I went back into the house. That's when

3 Tweety's brother was leaving out the house. So, I started

4 coming out of the house. I went this way. He went that way.

5 Then Wah-Luck told all of us to go ahead -- go ahead in the

6 house. So, we went on in the house.

7 Q What did Wah-Luck do with the shotgun?

8 A When he was shooting, he put it in -- he put it in

9 the car. And Tweety came back out the cut shooting. And he

10 pulled the shotgun back out and started shooting again.

11 And then that's when we had -- that's when we

12 started going back in the cut going towards our houses. And

13 that was it.

14 Q All right. Let me just make sure we got this

15 straight. When you're at the party, you go outside at first

16 and you see Tweety just standing out there, right?

17 A Mm-hmm.

18 Q And then there is some kind of conversation about

19 somebody coming up the street, correct?

20 A Mm-hmm.

21 Q All right. And then you go back inside, right?

22 A Mm-hmm.

23 COURT REPORTER: Yes or no?

24 THE WITNESS: Yes.

25 BY MR. PFLEGER:

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1 Q When you go back inside, that's when you hear the
2 shotgun blast, right?

3 A Yeah.

4 Q All right. And then you come back to the front
5 door, correct?

6 A Yes.

7 Q And when you're back at the front door, you see who
8 is shooting?

9 A I see Wah-Luck and J.J. shoot.

10 Q And what is Wah-Luck shooting with?

11 A A pump shotgun.

12 Q And what is J.J. shooting with?

13 A I think a 357.

14 Q Is it a pistol, a rifle?

15 A Pistol.

16 Q A pistol. All right. And you're saying, you think
17 it's a 357?

18 A Mm-hmm.

19 Q Is it a revolver or a semi-automatic, do you know?

20 A Revolver.

21 Q All right. Did you know J.J. to have a 357 revolver
22 before these events?

23 A No.

24 Q What makes you think it was a 357?

25 A Well, when I -- when I was walking down the cut, I

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1 looked at the gun. I knew it was a revolver. It could have
2 been a 38, but I think it was a 357, because when -- when he
3 -- the next day, they wanted to go get some bullets. And he
4 left the gun with me. And I ain't actually -- you know, hold
5 the gun or really pay attention to the gun. He just gave it
6 to me and told me to hold it. I took it and put it in the
7 car.

8 Q So, later on, J.J. actually gives you the gun that
9 he used that night before; is that right?

10 A Yeah.

11 Q All right. Now, can you see who it is that they're
12 shooting at when you come out to the front porch and you're
13 hearing this shooting?

14 A That's all I know Tweety was down that way. So --

15 Q But when you first get to the door, you don't see
16 Tweety?

17 A I don't see Tweety. I don't see Tweety, but I know
18 -- I know when I came out there, they was shooting up like up
19 the alley. So, when I got -- by the time I got down that way,
20 Tweety came from out of the cut shooting. He was running like
21 across the alley, from this cut to that cut, run across the
22 alley. I seen him like he ain't -- he wouldn't have the gun
23 like this. He had the gun like pointing backwards while he
24 was running, shooting. So, they was shooting.

25 Then after it stopped --

1 Q Okay. Let's back up for a second. After you see
2 Wah-Luck and J.J. shooting up an alley in, you believe, the
3 direction of Tweety, but you don't see him; is that correct?

4 A I don't see him at the time, no.

5 Q Then you come out of the house, right?

6 A Mm-hmm.

7 Q And that's when you see Tweety actually run
8 across --

9 A Run across from this cut to this cut across the
10 alley.

11 Q And at that point, J.J. and Wah-Luck start shooting
12 again?

13 A They start shooting again.

14 Q And Tweety is shooting back at them?

15 A Shooting back.

16 Q All right. And what happens -- does Tweety just run
17 away from the area?

18 A He just ran like to another cut. He could have
19 -- he still in the area, but he just ran out of sight,
20 probably around from -- around that part of the house. He
21 like on another street now.

22 Q All right. And what does Wah-Luck do with the pump
23 shotgun at that point; do you know?

24 A I don't know exactly what he did right then and
25 there, but I know we had -- he told everybody to go in the

1 house, so we started walking towards on Congress. So, at that
2 time, Wah-Luck and them on Congress inside the court. And so
3 I'm walking through the cut like coming on Congress.

4 And Tweety and some more other guys coming up the
5 street in the car. So, they started shooting like towards in
6 the court and the cuts and stuff.

7 So, I turned around and started running. So, I
8 guess Wah-Luck and them was shooting at them from in the
9 court. But, at the time, I was in the cut. The court right
10 here. So, I can't see Wah-Luck and them in the court, because
11 the court is like a U. And they inside the U.

12 Q Just so we're clear, the court is actually the area
13 in front of this u-shaped building, correct?

14 A Yeah. It's -- it's -- the house is made like a U.
15 He inside the U.

16 Q Right. And you're outside the U.

17 A And I'm out -- I'm on the side of the U on the
18 outside.

19 Q So, you can't actually see them in the court?

20 A Yeah, I can't see them, because houses blocking me
21 from seeing him. So, the car come up the street and started
22 shooting. They shooting inside the court and at the cut that
23 we in. So, at the time --

24 Q Who is with you in the cut?

25 A It was Brad. Brad. Brad was in the cut with me.

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1 Q Brad who?

2 A Brad Carter. He was in the cut with me.

3 Q And who is in the court the last time that you knew
4 who was there?

5 A Wah-Luck, J.J. I think Honky -- Honky was in the
6 court. I don't know exactly who was in the court, too. I
7 mean, I just know they was in the court. And there was more
8 people in the court, too, some more people in the court.

9 Q This -- this court, this is one of the places where
10 you guys would routinely gather and sell drugs from and hang
11 out there, correct?

12 A Correct.

13 Q All right. Now, do you actually see Tweety when the
14 car goes by?

15 A Yeah, because he was hanging out of the car while
16 they was coming up. And he was shooting towards on our side.

17 Q Could you tell who else was in the car?

18 A No, I couldn't tell who else was in the car.

19 Q And this is all happening on the same night?

20 A Same night.

21 Q Now, did you have a gun with you at that point?

22 A No.

23 Q So, is that the end of it for that night or does
24 anything else happen that night?

25 A The next day, that's when J.J. gave me the gun, him,

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1 my cousin, Munsey, they was -- and Wah-Luck and he wanted to
2 go get some bullets.

3 Q Where were they going to get bullets?

4 A Out in Maryland, I think. But he left the gun. So,
5 I put the gun in the car. So, I was like in the same cut that
6 they shot at us that night before. So, Tweety's brother,
7 Spook, pulled up in the car. Him and some other dude.

8 And --

9 Q Did you know who the other guy was in the car with
10 Spook?

11 A No. And he was telling me to come here. I didn't
12 know who it was at first. He got out, but he wouldn't come
13 from around the car. So, a dude that I knew named Randy was
14 coming towards me from over that way where he was at, the
15 dude, Spook.

16 So, Randy was telling me not to go to the car
17 because he got a gun on him.

18 So, I was like, yeah.

19 So, at the time, it was a gun, the same shotgun Wah-
20 Luck had was like by me, by the house. So, I was telling
21 Honky, go get it.

22 At the time, Spook jumped back in the car and pulled
23 off.

24 Q Just so we're clear, you're out there after they've
25 taken off to go get bullets, right, Wah-Luck and Munsey and

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1 -- who else was with him?

2 A It was Wah-Luck, Munsey, and J.J.

3 Q And J.J. So, they go off and get some bullets.

4 You're left out there with some of the other guys in that same
5 cut where you've been shot at the night before, right?

6 A Yeah.

7 Q And you see Spook pull up in a car with somebody
8 else, right?

9 A Yeah.

10 Q Who is the other person; do you know?

11 A I don't know the other person who was in the car.

12 Q You couldn't see them all?

13 A I could see him, but I just ain't know who he was.

14 Q All right. And Spook is telling you to come on
15 over, right?

16 A Yeah. He telling me to come here. He waving his
17 hand like, come here.

18 Q And at the time this is going on, this guy, Randy,
19 who is also one of you guys, right, part of the 1-5?

20 A Mm-hmm.

21 Q Is that yes?

22 A Yes.

23 Q Okay. He walks past the area where he can see
24 Spook, correct?

25 A He walked right past Spook.

1 Q And walks up actually to you; is that right?

2 A Towards me. He was going towards his house. He was
3 coming from the store. And he was walking -- he walked past
4 -- he walked out the cut where Spook was at and walked in the
5 cut where I was at and he was telling me, don't walk over
6 there, because he had a gun on him.

7 Q All right. So, apparently, Randy had seen that he
8 had a gun?

9 A Yeah.

10 Q Now, were any shots fired actually at that point in
11 time?

12 A No.

13 Q Going back for just one second, when Tweety -- when
14 the whole party shooting happened, when Spook -- excuse me
15 -- when Wah-Luck and J.J. were shooting at Tweety, do you know
16 whether or not Tweety actually got hit or not?

17 A He got hit by the pump.

18 Q He got hit by the pump?

19 A Mm-hmm.

20 Q How do you know that?

21 A Because he had a lot of -- like beebees out the
22 shotgun. They hit him in his back and he had a whole lot of
23 them. So, that night, he went down Congress Park and he got
24 one of his friends to take the beebees out of his back.

25 Q Now, how do you know that?

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1 A Because when I got locked up, Tweety got locked up
2 with me and he told me.

3 Q So, Tweety himself told you about this?

4 A Yeah, he told me.

5 Q Did he show you anything to prove that, in fact,
6 he --

7 A He showed me a couple of black spots where he got up
8 at the top, but he ain't showed me none down here. He just
9 showed me the ones at the top.

10 Q But he said there were a whole bunch more?

11 A Yeah, he said there was a whole lot of them.

12 Q All right. Now -- all right. Now, after there was
13 that attempt or potential attempt when Spook looked like he
14 was going to try to shoot you, when is the next time there was
15 some shooting going on? Was there anything else later that
16 day?

17 A No, there wasn't no -- there was no more. Wasn't no
18 more shooting. Oh, yeah, after that -- that day -- that day
19 we had -- we had went up there, but we didn't see nobody.

20 Q Wait a second. Wait a second. You said, you had
21 gone up there. Who are you talking about?

22 A Me -- me -- me, my cousin, but that was like -- it
23 was like night time, though. It was me, my cousin -- hold on.
24 No, it wasn't even -- as a matter of fact, my cousin wasn't
25 even with me. It was me, Wah-Luck, Rocky, I think Randy. We

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1 went up there. And that's when Wah-Luck, he had two guns on
2 him. And Pooh was like bending over in the car. And that's
3 when Wah-Luck ran out there and started shooting.

4 And then that's when I know we started running back
5 across the field. That's when Pooh and them was shooting at
6 us.

7 And Randy -- Randy started shooting his gun back at
8 him and that's when we ran through the cut back on Stanton
9 Road.

10 Q All right. Let's -- let's try to take it from the
11 top. Okay. You said there was a group of you who went up to
12 where, Stanton Terrace?

13 A Yeah.

14 Q All right. What was your intent? I mean, why did
15 you guys get together and decide to go up there?

16 A Well, for one, the dude, Spook, tried to get me.
17 So, that's why we went up there that time, because he was
18 trying to get me.

19 Q Basically, at this point, 'the beef was on?

20 A The beef was on. That's when I -- that's when I
21 really knew that the beef was on. I ain't take it seriously
22 that night when Wah-Luck and them was shooting, but the next
23 day, I took it seriously because when I seen that the dude was
24 trying to get me. So, I took it seriously.

25 Q Now, where did you guys meet up? You said, it was

1 you, Wah-Luck, Randy and who else?

2 A Rocky.

3 Q And Rocky. Now, Rocky is dead, right?

4 A Rocky dead.

5 Q He was later killed by one of the Stanton Terrace
6 guys on 15th Place, right -- around --

7 A Yes.

8 Q Now, where did you guys get together before you went
9 actually up to Stanton Terrace?

10 A In the alley.

11 Q Which alley are you talking about? Is that the
12 alley that runs between Congress and Bruce Place?

13 A Yeah.

14 Q All right. Where in the alley, up by the basketball
15 court or down by the trash cans or where?

16 A It's like the basketball court right here. It's
17 like in the middle of the trash can and the basketball court.

18 Q Now, so you guys are going to go over to Stanton
19 Terrace to do what?

20 A To go -- just go shooting.

21 Q So, basically, anybody from Stanton Terrace who was
22 over there you were going to go shoot?

23 A That was with Tweety and them, yeah.

24 Q So that would essentially mean most of the guys that
25 we talked about the other day, right?

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1 A Yes.

2 Q All right. So, trace the path. How do you go from
3 the alley to Stanton Terrace?

4 A We went through the alley, through the cut on
5 Stanton Road. Then we went through Turner Field.

6 Q Turner Elementary School?

7 A Yeah.

8 Q Okay. This is the ball field and stuff they have
9 out there?

10 A Yes.

11 Q All right.

12 A Then we went through the fence. And then we went
13 through one of their cuts. And then we on E Street. But we
14 stayed in -- we stayed like in the cut. Wah-Luck, the one
15 that went out in the street.

16 Q Did you guys have a plan about what was supposed to
17 actually happen?

18 A No. It wasn't -- it wasn't really no plan. It was
19 just that time we got up there, one of the dudes just out
20 there talking to some girls in the car. And at the time, Wah-
21 Luck just ran out there and just started shooting. Then he
22 came back. We ran -- we was running back across the field.
23 That's when they started shooting at us.

24 Q Could you tell who it was that was actually shooting
25 at you?

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1 A I couldn't tell exactly, but I got an idea that it
2 was Pooh and Junie. But I can't tell you exactly who it was.

3 Q You couldn't actually see the faces of the people
4 shooting?

5 A I couldn't see their faces because it was dark at
6 the time.

7 Q All right. But there's gunfire coming at you, so
8 you're running.

9 A Yeah, I'm just running.

10 Q Who else from your group is shooting -- well, who,
11 if anybody, is shooting back at these guys?

12 A Rocky and -- no, it was just Randy shooting back. I
13 think Rocky shot back twice, a couple of times.

14 Q Rocky shot back twice?

15 A Yeah, I think he shot back a couple of times.

16 Q And you said Randy was shooting?

17 A Randy was shooting, but Randy shot back more
18 -- Randy shot back more than Rocky.

19 Q What did Randy have? What kind of gun?

20 A I think Randy had a Tech 22 -- Tech 22.

21 Q Okay. That's essentially a hand machine gun that
22 shoots 22 caliber bullets?

23 A Yeah.

24 Q All right. Now, when you guys got back over into
25 Stanton Dwellings, to your home territory, what happened when

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1 you got back there?

2 A We went back in the alley. Then I went on Congress.
3 Me and Wah-Luck went on Congress. Rocky and them went on 15th
4 Place. Then that was it.

5 Q That was it for that night?

6 A That was it for that night.

7 Q Okay. Now, what's the next time -- let me ask you
8 something about this. Was there a shooting that happened
9 before this where Munsey was riding -- that your cousin was
10 riding around on a bike or something? Is that before or after
11 this shooting that you just described where you went up there?

12 A I think -- I think this was before the shooting,
13 that we went up there. I think this is before.

14 Q Okay.

15 A I think this -- I think that was before. And the
16 one that Munsey was on the bike, I think that was after.

17 Q So, you think Munsey riding around on the bike, that
18 -- the shooting --

19 A Yeah.

20 Q -- that happened with that, that happened after?

21 A Yeah, that happened after.

22 Q Okay. And can you tell us about that? When this
23 thing that we're referring to as Munsey riding around on his
24 bike --

25 A We was just in the court, me -- me, Squid and Wah-

1 Luck, J.J. Munsey came around there. He was just riding a
2 bike up and down the street. So, I told -- I told him to get
3 off the bike. So, he was like all right. So, he rode up to
4 the top of Stanton Road.

5 Q Why did you tell him to get off the bike?

6 A Because they was like -- you know, the dude might
7 come around there. So, he was like -- he was like, all right.

8 Q What's the problem with being on a bike if the dudes
9 come around?

10 A Because if you on a bike, you can't really react
11 from -- you know, if somebody try to run -- run at you with a
12 gun, you can't really react from it.

13 So, I told him to get off the bike. He was like,
14 all right. So, he rode up to the top of the corner.

15 Q Which corner are we talking about?

16 A Stanton Road. And at the time he did that, he
17 already on Stanton Road. And while he up there, we across
18 -- we across the street in one court. And Lala and all them
19 like across the street in another court.

20 So, Tweety, his brother, Spook, and the dude named
21 Cootie, it's like three cuts on the street. It's one at this
22 -- end of this cut. It's one in the middle. And it's one in
23 the other end.

24 Q Just so we're clear, a cut is just a space between
25 two buildings, right?

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1 A It's just a space between -- yeah, two buildings.
2 He was in the cut. It's three cuts on the street. And they
3 are just -- they're apart from each other, like separate, you
4 know. So, they -- all of them was shooting across the street
5 in the cut where Lala and them at.

6 Q Which street are they shooting across?

7 A They shooting across Congress Street.

8 Q Okay.

9 A So, we in -- we in the cut across the street from
10 Lala and them.

11 Q Who is we?

12 A Me, J.J., Wah-Luck and Squid. So, they can't see us
13 in the court. But, the cut right here, so we can hear the
14 guns like here and here. But I didn't know that Tweety was at
15 the end. Tweety ran from the cut all the way across the
16 street to another cut.

17 So, Squid shot at him one time. So, he went through
18 the cut. At the time when he ran through the cut, my cousin
19 was on the bike, he was at the other cut on Stanton Road,
20 coming down. And he seen Tweety come across the cut.

21 So, my cousin started shooting at Tweety. And that
22 was it.

23 Q Okay. Then they ran -- they ran back?

24 A Tweety ran another way. Tweety's brother and the
25 dude, Cootie, they went back the way they came.

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1 Q Did anybody get shot that time?

2 A No, nobody didn't get shot that time.

3 Q Now, on May 8, 1996, Spook gets murdered. Are you
4 around when he actually was murdered?

5 A No.

6 Q Do you remember where you were on the day that he
7 got killed?

8 A I was uptown, Northwest.

9 Q Okay. Did you come around to the neighborhood after
10 the murder actually happened?

11 A I came -- I came around the neighborhood when a
12 helicopter was picking him up.

13 Q And when you got back in the neighborhood when the
14 helicopter was there, what happened? Just tell us what you
15 saw and what you heard.

16 A I just seen a helicopter picking him up. And I was
17 asking people who it was. And they was like, it's Spook. So,
18 I was like, yeah.

19 So, I came back on Congress. Wah-Luck was standing
20 in the court.

21 Q Wait, wait. Before we get that far, where were you
22 actually at when you see the helicopter landing?

23 A I pulled on Stanton Road. Then I pulled on
24 Congress, went to the end of Congress and turned around.
25 Parked on Congress. Got out. Went across the street.

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1 Q To where?

2 A To Turner. At that time, the helicopter was already
3 landing. So, at that time, they was putting him in the
4 helicopter and they took off. So, when the helicopter took
5 off, I just left.

6 Q Did you see where Spook was actually shot at?

7 A I seen where he got shot at. He got shot like by
8 the library. But, at the time, I didn't know he got shot down
9 there by the library, because at the time, they had everything
10 blocked off. So, we was like at the other end of the school,
11 so we couldn't tell where he got shot at until when they
12 picked them up. And they -- you know how they have the shells
13 and all that. So, that's how we knew he got shot down there.

14 Q So, you stayed around long enough to see where the
15 police were picking up evidence from?

16 A Uh-huh.

17 Q Okay. And who was with you while you were out there
18 looking at all this, do you remember?

19 A Rocky and Mush.

20 Q And were they saying anything about what had
21 happened at that point?

22 A No, but they was with me. They was just like
23 -- they was just like trying to find out like I'm trying to
24 find out. We was like, who was that? And to -- there was a
25 lot of people out there, so they was like, that's -- that was

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1 Spook. And they was like --

2 Q Did anybody else get shot, besides Spook?

3 A Yeah, Murphy.

4 Q A guy named Murf?

5 A Yeah.

6 Q Do you know his real name?

7 A His last name is Murphy. I keep forgetting his
8 first name. But his name Man.

9 Q They call him Man on the street?

10 A Yeah, his name Man. He my -- on my brother's -- on
11 my father's side, he my brother's cousin. But I forgot his
12 -- you know, his real first name. I forgot his first name.

13 Q All right. So, now you go back over from Turner
14 Elementary School where you're watching all this, back onto
15 Congress, right?

16 A Right.

17 Q So, what happens when you get back to Congress?

18 A So we getting back in the car. I see Wah-Luck
19 standing in the court. So, I was like, somebody got us Slim,
20 like that. He was like -- he just looked at me and smiled
21 like -- he just gave me a smile like he did it.

22 So, I jumped in the car and we just left around the
23 neighborhood. We just pulled off and left from around there.

24 Q So, in your mind, you understood this exchange that
25 you had with Wah-Luck that he had been the one -- or one of

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1 the ones responsible for the killing of Spook?

2 A Yeah. Then they was like in the neighborhood, that
3 he did it anyway.

4 Q All right. Did you ever have an actual sit-down
5 conversation with Wah-Luck where he kind of laid it all out?

6 A He -- it wasn't like he really laid it out on that
7 -- that one. But it was -- it was one that he did tell me
8 about. But he ain't exactly told me about that one. He was
9 just like that when they supposed to shot him, he didn't know
10 that -- all right. He was walking through the cut. I think
11 he was eating or something.

12 Q Who are you talking about?

13 A Spook.

14 Q Spook was walking through the cut eating?

15 A Through the cut eating. And when he turned around,
16 he couldn't get his gun in time. At that time, they shot him
17 -- shot him when he turned around. They was shooting him up.

18 Q Are you saying this is what Wah-Luck told you or is
19 this what you put together from other people talking about it?

20 A Well, other people was talking about it, too. He
21 ain't -- he ain't tell me exactly that. He was just saying
22 that when he turned around, he didn't know what was coming.

23 Q Okay.

24 A So, I just put -- put the other stuff together.
25 When he turned around, he just got -- you know, shot up from

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1 everybody talking about it all the time.

2 Q So, what Wah-Luck actually said to you is --

3 A When he turned around, he didn't know what was
4 coming.

5 Q All right. So, when Spook turned around, he didn't
6 know he was about to get killed?

7 A He didn't know it was coming.

8 Q It was a surprise?

9 A It was a surprise.

10 Q Okay. And that conversation that you had with Wah-
11 Luck about that murder, was that at the time when you first
12 went up to him and you said to him, I heard that Slim got
13 killed and he gives you the look that tells you he did it?

14 A I didn't -- I didn't go up to him. I was getting in
15 the car. And the court like this. And this the street. So,
16 I'm getting -- I'm getting back in the car. I'm driving. So,
17 I'm getting back in the car.

18 So, I look at him. I was like, Slim -- I did like
19 that, Slim got -- somebody got -- got us Slim, like that. He
20 was like -- he just started smiling. So, the smile that he
21 gave me was like he did it, so.

22 Q Now, let me make sure I understand this. When
23 -- this is right after Spook gets murdered, right?

24 A Mm-hmm. Matter of fact, the helicopter just took
25 off like probably five minutes. And I'm ready to get back in

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1 the car and just get away from the neighborhood.

2 Q And does Wah-Luck get in the car with you?

3 A No, he just standing in the court.

4 Q So, you're talking to him from the window.

5 A I'm getting -- like I'm opening up the door. And I
6 say, somebody getting us -- I'm facing him. He in the
7 court -- I'm like, somebody -- somebody got us Slim, huh? And
8 he just gave me like a smile, like he did it. So, I just jump
9 in the car and start it up.

10 Q Now, you made a motion earlier that you said -- when
11 you said, somebody got us Slim, you nodded your head, like you
12 were nodding over to a certain area.

13 A I did -- I did like this. Somebody got us Slim,
14 huh? Because the school like at this corner. The car faces
15 the school. The court is on my right. So, I'm getting in the
16 driver's side. I'm facing Wah-Luck while I'm getting in the
17 driver's side.

18 But when I -- when I get in the car, I'm facing the
19 school now. So, all I got to do is nod my head this way, c
20 I'm facing Wah-Luck at the same time.

21 Q So, your gesture to the school was a reference to
22 somebody getting killed?

23 A Somebody got us Slim, like that. So, he was -- he
24 just gave me a smile and I just got back in the car and pulled
25 away.

1 Q And when was it that he made this comment to you
2 about, he didn't see it coming? Where were you at at that
3 point in time? Were you on the street or were you in jail or
4 what?

5 A I think -- I think he was telling Squid -- I think
6 he was telling Squid about it. I'm not -- I think he was
7 telling Squid about it one night when we was in the court.
8 And I was just sitting there listening. And that was -- that
9 was it.

10 Q Okay. So, it was one of the nights before you got
11 locked up after Spook's murder, he was sitting there telling
12 Spook about -- excuse me. He was telling Squid about the
13 murders?

14 A He was telling Squid.

15 Q Telling Squid about the murder of Spook?

16 A Mm-hmm. And I think -- I'm not for sure, but the
17 rumor -- it wasn't no big rumor like Wah-Luck, like the rumor
18 of Wah-Luck. But, certain people was like, Blue was with it.
19 They was saying that Blue was with it. But that was just a
20 rumor with him. They were saying two people had did it.

21 Q Did Wah-Luck ever confirm to you that Blue, in fact,
22 was with him?

23 A No, he didn't tell me that Blue did it.

24 Q Did Blue ever tell you?

25 A I heard somebody say that Blue did it, but I don't

1 remember who -- who it was. Blue ain't never tell me he did
2 it. I never got a chance to really -- really talk to Blue.
3 Blue was just -- Blue that type, when he out there, he like to
4 brag about things. So, he probably did tell a couple of
5 people if he was with him, so.

6 Q But, to the best of your memory, the conversation
7 where you overhear Wah-Luck saying something about -- Spook
8 didn't expect it coming, that was in a conversation that
9 happened in the court between Wah-Luck and Squid, right?

10 A Right.

11 Q Okay. Now, after the murder of Spook, there were a
12 whole series of shootings. The pace of the shootings picked
13 up, isn't that correct?

14 A Correct.

15 Q I mean, basically, there were shootings going back
16 and forth and back and forth on a relatively routine basis,
17 correct?

18 A Correct.

19 Q And you participated in at least some of those
20 shootings, right?

21 A Correct.

22 Q Now, do you recall a time when you and a group of
23 guys got into a pick-up truck?

24 A Yes.

25 Q All right. Where were you before you got into the

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1 pick-up truck, do you remember?

2 A I was on Congress.

3 Q You were on Congress?

4 A Yeah.

5 Q Tell us what happened leading up to this attempt?

6 A Me and Wah-Luck had walked up to -- me, Wah-Luck and
7 Blue had walked up the alley just to see what was going on
8 with -- you know, a couple of them dudes up there.

9 Q Now, is this the same alley you were referring to
10 before, the one that runs between Congress and Bruce?

11 A Yeah.

12 Q All right. Go ahead.

13 A But we was just walking up there to see what was
14 going on up there. And Funky and ODB had a pick-up truck.
15 And --

16 Q Where had they gotten the pick-up truck, do you
17 know?

18 A They rented it from some -- some dude. So, they
19 were just riding around, spinning the truck around and all
20 that. So -- so, at the time we walked up there, Rocky
21 -- there was just a whole lot -- a whole lot of people up
22 there. So, at the time they was like, well, either use the
23 truck to go up -- up Stanton Terrace. So, everybody started
24 going to get their guns and stuff.

25 So, Blue went and got his gun.

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1 Q What kind of gun did Blue have?

2 A Blue had an AK.

3 Q Is this a rifle?

4 A Uh-huh. So, everybody went up there. Everybody get
5 in the truck. And it was me, Blue, Funky, ODB, Rocky, Randy,
6 J.J. I think that was it.

7 Q Was Wah-Luck in there?

8 A Yeah, Wah-Luck. He was in there.

9 Q And was Munsey in there?

10 A I can't remember. I don't -- I can't recall that he
11 was in there. I think he was.

12 Q You're not sure?

13 A I'm not -- I'm not sure right now, but I think he
14 was.

15 Q Did anybody else have an AK besides Blue?

16 A Funky had an AK.

17 Q Do you remember what Randy had?

18 A Randy had a Tec 22.

19 Q And how about Rocky?

20 A Rocky -- I think he had a 9, I think, a 9, I think.

21 Q And how about Wah-Luck, what did he have?

22 A Wah-Luck had a 40. Wah-Luck had a 40. And I think
23 he had a 357, too. And J.J. had a 9. And I had a 40.

24 Q You had a 40, as well?

25 A Uh-huh.

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1 Q Where did you get your 40 from?

2 A From my cousin.

3 Q Your cousin, again, being Munsey?

4 A Yeah.

5 Q All right. So, after you guys all hop in the truck
6 -- I mean, everybody knows you're going up there to try to
7 shoot at some of the Stanton Terrace guys, right?

8 A Yes.

9 Q So, you go from the alley. Trace the path of the
10 truck. What happens?

11 A We rode -- we rides up Stanton Terrace. There
12 wasn't nobody out there. We come back down. There wasn't
13 nobody out there, so we just came back in the alley. And then
14 everybody got out. And that was it.

15 Q So, you rolled through a couple of times?

16 A Mm-hmm.

17 Q And nobody was out there?

18 A Nobody was out there.

19 Q Did you come to learn at any point in time that
20 people were looking out for you guys coming and calling ahead
21 to them?

22 A At the time, I didn't know, but I found out.

23 But --

24 Q What did you find out?

25 A At the bottom of Stanton Terrace, the dudes down

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1 there had walkie-talkies, letting them dudes know that people
2 -- whoever going to come through that they was beefing with,
3 they was letting them know.

4 Q And when you say, the bottom, you're talking about
5 the area near Turner Elementary School, right?

6 A Yeah.

7 Q Was there somebody particular from the bottom that
8 was doing this?

9 A I think a dude named Mike, Mike Tinch, I think.

10 Q Mike Tinch?

11 A Uh-huh.

12 Q Now, on June 7, 1996, you shot a police officer,
13 correct?

14 A Yeah.

15 Q All right. Now, let's start from the beginning on
16 that. Before you actually shot the police officer, where were
17 you?

18 A I was at the liquor store.

19 Q Who was with you?

20 A Cooler.

21 Q Cooler?

22 A Yeah.

23 Q And what happened after you went to the liquor
24 store; where did you go?

25 A I'm coming back towards Congress.

1 Q Had you been on Congress before you went to the
2 liquor store?

3 A Yeah.

4 Q And who is out there at the time that you were out
5 there before you went to the liquor store, to the best of your
6 memory?

7 A Me, Wah-Luck, Cooler, Honky, dude named Block. A
8 lot of girls was out there. Lala. A lot of young dudes his
9 age was out there, like 14 and 15. They was out there.

10 Q Okay. Now, when you come back from the liquor
11 store, what happens?

12 A I was getting out of the car.

13 Q Which street are you on?

14 A On Congress. I was getting out of the car. I had a
15 bag in my hand. I had a gun under the bag, so at the time I
16 was getting out of the car, an old car was coming down the
17 street with the lights out. And there was like four people in
18 there.

19 So, I really didn't pay attention to the car, but I
20 knew the lights was off. So, when I looked at the car, they
21 rode past. They pulled in the alley.

22 So, at the time, they pulled in the alley, a couple
23 -- a couple of dudes over there by Wah-Luck and them was like
24 -- they was like, that was -- that was them.

25 Q That was who?

1 A That was -- you know, they was saying, that was them
2 niggers, like that, so.

3 Q Who were they referring to?

4 A They were saying that was Stanton Terrace and them.
5 So, at the time, I put the bag down and went through the cut.
6 So, a dude named Poochie had come through the cut with me.

7 At the time, Wah-Luck --

8 Q Was Poochie with you guys? Was he part of 1-5?

9 A No, he wasn't part of it. He would just come
10 around. He one of the old-timers used to be around there when
11 I was young. He just grew up around there. So, he don't live
12 around there no more. He just come around sometimes. But, at
13 the time, he was out there that night.

14 Q Now, were you armed at this point?

15 A Yeah, I was armed.

16 Q So, you had a gun with you this whole time, from the
17 time you came back from the liquor store?

18 A Yeah.

19 Q What kind of gun was it that you had?

20 A I had a 9 -- a 9.

21 Q A 9 millimeter?

22 A Uh-huh.

23 Q And where did you get that gun?

24 A From my cousin.

25 Q Now, do you know whether Poochie was armed?

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1 A Yeah, he was armed.

2 Q What did he have?

3 A He had a 380.

4 Q All right. So, you decided to follow this car into
5 the alley?

6 A He -- the car went in the alley. I went through the
7 cut. Wah-Luck went -- ran down to the alley and was like
8 -- well, the car went at the entrance of the alley. That's
9 where Wah-Luck went through.

10 So, I went to like the end of the cut and was just
11 standing right there. The car pulled beside another car. And
12 they was just sitting beside each other.

13 At the time, Poochie was like, that was them. He
14 was telling me, that was them and all that. So, if I would
15 have -- if I would have waited just about two or three
16 minutes, Wah-Luck would have ran down on the car.

17 But, at the time, I had started shooting at the car.
18 And then after I started shooting, I just got up and we walked
19 back towards Congress. So, I put the gun in the bushes.

20 Q Hang on a second. Let's back up a minute. When you
21 go through this cut toward the alley, right?

22 A Correct.

23 Q And you said, Wah-Luck goes in a different
24 direction, is that correct?

25 A Yeah.

1 Q All right. The only thing you know at this point is
2 that this car has pulled into the alley, right?

3 A Pulled into the alley.

4 Q And you're thinking at that point in time that this
5 is the people from Stanton Terrace?

6 A Yeah.

7 Q All right. And so when you get into the alley and
8 you can see this car, it's actually pulled next to another
9 car, correct?

10 A Yeah.

11 Q And can you actually see the faces of the people
12 inside these cars?

13 A No, because it's dark. The alley dark. You can't
14 -- the only thing you can see is the lights on the car, the
15 back lights.

16 Q All right. So, you get to where before you start to
17 fire? Where is it that you're actually firing from?

18 A Well, I got by like the end of the cut like where I
19 said that Tweety's brother called me from. I was like right
20 there at the end of the cut.

21 Q Now, when you -- you start firing. Can you tell us
22 how many shots do you fire?

23 A Seventeen times.

24 Q Is that everything the gun will hold?

25 A Yeah.

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1 Q And you fire at this car?

2 A Yeah.

3 Q Can you tell whether or not any of your bullets are
4 hitting the car?

5 A I couldn't tell. I just know that bullets was
6 hitting the fence like where the car was at. There's a big
7 fence in front of the car. So, bullets was hitting the fence.
8 But I ain't know that the car was getting hit or none of that.

9 I just knew that -- because it was a long range. It
10 was like I'm in the cut. The car was like way over there in
11 the alley. So, I'm shooting from a long -- you know, a long
12 range, so.

13 Q Now, does Poochie shoot?

14 A No, Poochie didn't shoot.

15 Q Did you expect Poochie to shoot?

16 A Yeah, I expected him to shoot.

17 Q Why didn't he shoot?

18 A I guess I started shooting before he did. I guess
19 he ain't -- I guess he ain't had to shoot. And sometimes,
20 like if I shoot, shoot all my bullets, and he got a gun, he
21 just hold his bullets just in case somebody else get to
22 shooting at us.

23 Q Kind of back-up.

24 A Yeah.

25 Q All right. Now, you shot them before Wah-Luck could

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1 get in position, is that right, to shoot, as well?

2 A He -- he could have been in position. He just ain't
3 go out and do it, yet. But, from my knowledge, he wasn't in
4 position right then. So --

5 Q Well, let me ask you this. After you do all the
6 shooting at that point, where do you go at that point?

7 A I walk back across the street on Congress, put the
8 gun in the bushes. Then, at the time --

9 Q Did anybody else come up at that point?

10 A At that time, Wah-Luck, he was walking up the
11 street. At that time, the police had already jumped out and
12 laid us down on the ground and was checking us. So, he was
13 --

14 Q This is before or after you put the gun up in the
15 bushes?

16 A This -- this was -- I already put the gun down. And
17 then the police came and laid us down. Then --

18 Q So, the police got there almost immediately then?

19 A Yeah, they -- they was right -- as soon -- as soon
20 as it happened, police was everywhere. So, they laid us down
21 on the ground and was checking us and stuff.

22 So, we was like, what happened?

23 They was like, the police just got shot.

24 So, they had the whole street blocked off. So, they
25 were just checking us. And they let us go.

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1 Q Did they find anything on you?

2 A They didn't find nothing.

3 Q Who else was laid down?

4 A I think it was Poochie, J.J. It was a whole lot of
5 us laid down. It was like about five of us laid down.

6 Q Now, did you stay out there while the police are
7 processing the scene or going up there?

8 A They was like in the alley, so that's all we could
9 see is people moving because it's dark. We across the street
10 on Congress, so we stayed in -- in the court. But we could
11 look through the cut, but we can't see what they exactly
12 doing.

13 We know -- I knew that where -- where I was at and
14 where I shot the gun, they was right there picking up all the
15 shells and stuff.

16 Q Now, when the policeman told you that it was a
17 police officer who had been shot, what were you thinking?

18 A I was -- well, I was thinking a whole lot of things.
19 I can't remember what I was thinking. I was thinking a whole
20 lot of things. At the time, I was drinking, so I was just
21 -- I was in another world at that time, so I couldn't remember
22 what I was thinking.

23 But all I remember -- all I remember, I was just
24 like -- I was shocked that -- when he told -- when he told me
25 -- the police told me the police got shot, I ain't really

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1 believe it at the time. I ain't believe it.

2 And then when I seen all the police around, I was
3 like, it can be.

4 When I went in the house at 6:00 that morning, I
5 seen on the news, that's when I believed it.

6 And my cousin was like, don't -- don't even worry
7 about it, you know. He was just like, you know -- at first,
8 he was like, the lord forgive -- you know, for your sins and
9 all that. But, at the time, I ain't -- I'm saying I knew that
10 the lord, you know, but I didn't believe in all that at one
11 time.

12 So, at the time, I was like, yeah, okay. You know
13 what I'm saying? I'm just going on what he saying. You know
14 what I'm saying?

15 But, at the time, it was just -- it was just wild.

16 Q I mean, were you messed up that you --

17 A I was messed up, yeah, because when I came in the
18 house and I seen it on the news, I woke up my uncle's friend
19 and I was telling him about it. And he was like, you know,
20 you fucked up and all that. Excuse my language, but he was
21 like, you know, you know, you messed up.

22 So, I was like -- I was just -- you know, I was
23 down. I was like, you know, I'm gone.

24 The only thing I was thinking of was life, you know
25 what I'm saying.

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1 Q Meaning you were going to go to jail for life?

2 A Yeah. So, after a couple of days passed, I was just
3 like, I guess I'm going to get away with it. I didn't think
4 that they was going to come for me or nothing like that.

5 Then when they ran in my house, they ran in my house
6 and was like, the police locked me for I had a gun in my
7 house. So, they was locking me up for the gun.

8 So, the police was taking pictures off my wall. He
9 was like, you don't like police.

10 So, then I started thinking, they here for -- they
11 got me for this now, for the police. All along, they was just
12 running in my house for the guns to see if they could catch me
13 with the gun. But they did not catch me with the gun. They
14 caught me with another gun.

15 Q What happened to the gun that you used in the
16 shooting of the police officer?

17 A I gave it back to my cousin.

18 Q And do you what he did with it?

19 A Sold it.

20 Q Now, you said that Wah-Luck had run around a
21 different way in order to try to get a different angle at the
22 car, right?

23 A Correct.

24 Q All right. Did you have a conversation with Wah-
25 Luck that night after the shooting?

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1 A He had walked up there and was like, I should have
2 waited until he did something first. I should have waited,
3 because at the time I shot, he couldn't get out of the alley
4 just in time, because the police was everywhere. So, he put
5 his gun -- he took his vest off and put a gun down by the
6 trash can.

7 So, the police found the vest and the gun.

8 Q Was he upset about that?

9 A Yeah, he was upset, because that was the only gun
10 that he had. And then from my understanding, I think that was
11 a gun that supposed to kill Spook. So, he was really messed
12 up, because his fingerprints was on the gun and stuff like
13 that.

14 But, now after a couple days passed, he wasn't even
15 worrying about -- worrying about it no more. So, that was
16 that.

17 Q So, he was worried because that was the gun he had
18 used in Spook's murder?

19 A Yeah.

20 Q And you said you put down a vest?

21 A He had a vest.

22 Q Are you talking about a clothing vest or what kind
23 of vest?

24 A A bullet-proof vest.

25 Q A bullet-proof vest.

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1 A Yeah.

2 A JUROR: Are you planning on taking a break?

3 MR. PFLEGER: I was just going to say, if you want
4 to, we can.

5 (Brief recess.)

6 BY MR. PFLEGER:

7 Q Mr. Green, at the time that we left off just a
8 minute ago here, we were talking about the time when you shot
9 a police officer. Did you become aware, in fact, that a
10 police officer had actually been shot by you?

11 A Yeah.

12 Q Was that on the news when you heard it that, in
13 fact, a police officer had been shot?

14 A Yeah.

15 Q Now, do you know or did you come to learn why the
16 police were in that area in the first place?

17 A Well, the girl, Chante, her -- her and her brother
18 got shot one time. Her brother died. And she was testifying
19 against the dude. And the dude's brother and the dude, Funky,
20 was just out there plotting on her. She was -- they was out
21 there trying to, you know, get her.

22 Q They were trying to kill a witness?

23 A Yeah. So, she was just out there. So, the dude,
24 Idaho, he seen them, but he didn't know what they was doing.
25 So, he was like, who is that? Because he couldn't see them.

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1 It was dark.

2 So, at that time, she went on in the house and
3 called the detective. So, that's when the police must have
4 came around there. All along, the police probably was coming
5 to get the two dudes out of the alley, because they was in the
6 alley where the police got shot at.

7 Q So, as far as you knew, the police were there for
8 something unrelated to you and your -- and your friend, as far
9 as you knew?

10 A Yeah.

11 Q Although, Funky, of course, was one of the guys that
12 was with you in all this, right?

13 A Yeah.

14 Q All right. Now, do you know whether or not this
15 person, Idaho, actually -- do you know Idaho's real name, by
16 the way?

17 A It's Ira something.

18 Q Ira something?

19 A Mm-hmm.

20 Q Okay. Do you know whether or not he actually saw
21 you shoot at the police officers?

22 A He -- he was standing on the front porch like on my
23 right. So, he was -- he was out there. He was like on my
24 right.

25 Q Okay. We're going to come back to him a little

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1 later. Okay. Now, after your shooting of the police officers
2 and you learned that basically they -- you weren't going to
3 get picked up, at least not immediately with regard to that
4 shooting, did you and Shelton Marbury go on another occasion
5 up to the Stanton Terrace area to try to shoot some of the
6 Stanton Terrace guys?

7 A Just me and him.

8 Q Just you and him?

9 A Yeah.

10 Q Where were you guys before you went up there? I
11 mean, what street?

12 A Just on Congress.

13 Q So, you were just hanging out as normal?

14 A Yeah.

15 Q So, tell us what happened.

16 A We just walked up there and we seen -- we seen a
17 whole lot of people out there. They were at a block party.
18 So, we were just walking up there.

19 Q What street is the block party on?

20 A On Frederick.

21 Q So, go ahead.

22 A So, we was just walking up there. And we seen
23 everybody out there, but there was too many kids out there.
24 So, we just turned around and went back. It was -- it was hot
25 outside.

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1 Q So, this was during the day time or the night time?

2 A Day time.

3 Q All right. And did you guys go masked up or did you

4 go --

5 A Just regular clothes. No mask, nothing.

6 Q Okay. So, you just walk up there in day time right
7 into their territory?

8 A Yeah.

9 Q What were you carrying?

10 A A 9.

11 Q A 9 millimeter?

12 A Yeah.

13 Q And what was Wah-Luck carrying?

14 A A Tec 9.

15 Q A Tec 9?

16 A Yeah.

17 Q And did either one of you actually fire any shots?

18 A No.

19 Q And you say when you got up there, you saw some of
20 the people that you were -- some of the Stanton Terrace guys?

21 A Yeah.

22 Q But there was a lot of other people around, too?

23 A Yeah.

24 Q Including a bunch of children?

25 A Yeah.

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1 Q And who made the decision, well, let's not do it
2 because there's too many kids?

3 A Wah-Luck.

4 Q So, Wah-Luck said, too many kids, let's go?

5 A Yeah

6 Q So, what did you guys do?

7 A Just turned around and walked back.

8 Q Now, shortly after that, there was an individual by
9 the name of Mark Barnes, who was shot. Do you know a person
10 by the name of Mark Barnes?

11 A Yeah.

12 Q And, in fact, for a while, you were actually locked
13 up in the same area as Mark Barnes over at the Correctional
14 Treatment Facility near the D.C. jail, correct?

15 A Yeah.

16 Q All right. Now, before Mark Barnes got shot, where
17 were you and some of the guys that you were with?

18 A Me, Rocky, Wah-Luck, Soupbone and Randy, we was all
19 in the alley. So, they decided to just walk up there. So,
20 instead of us just walking exactly up there, we started from
21 the bottom, started walking.

22 By the time we got to the bottom --

23 Q Hang on a second. Trace for us by landmarks how
24 you're going. You go from the alley, right?

25 A Go from the alley through the cut by Turner School.

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1 Q Do you cross over Turner School?

2 A We cross over there, but we still -- Turner School
3 still right here by us. We like by -- by the door. We by the
4 tunnel, so.

5 Q Okay.

6 A At the time, we by a house, too. We by Tommy's
7 mother's old house. We by her house.

8 Q Tommy Edelin's mother's old house?

9 A Yeah. We by her house. And it was real dark right
10 there, so.

11 Q What's your intent for the four of you guys going up
12 there or the group of you to do?

13 A We was going up Stanton Terrace to see if we see
14 anybody out there.

15 Q Okay. And the people who go with you is Wah-Luck,
16 Rocky, Randy and Sooliman, right?

17 A Mm-hmm.

18 Q And Sooliman's nickname is what?

19 A Soupbone.

20 Q Okay. Now -- I'm sorry. When you get up to Tommy
21 Edelin's old house, what happens?

22 A We seen some dudes like across the street, but we
23 couldn't tell who they was. So, Rocky and Randy was talking.
24 And I heard -- I heard Wah-Luck say, you want to get at them,
25 like that.

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1 So, as soon as he said that, a light just flashed
2 on. Like it was a light, like so if your body get under that
3 light, it just come on.

4 Q You mean, there's a sensor there?

5 A Yeah, sensor. So, the light just came on. As soon
6 as the light came on, they just started shooting.

7 Q Who was actually shooting?

8 A Well, I seen Wah-Luck and Soupbone shooting. I
9 ain't really pay attention to Randy. But, as soon as they
10 started shooting, they started taking off. I started taking
11 off, but I went the opposite way. I went like under the
12 tunnel where the school at. I went under the tunnel and came
13 out on the street.

14 They went towards the field and went through the cut
15 and then came on the street.

16 So, we went two opposite ways, but we end up at the
17 same place.

18 Q And what happened when you got back to the same
19 place? Where was that, first of all?

20 A That was like in the alley of 15th.

21 Q Okay. So, back to the same home spot you started
22 from?

23 A Yeah.

24 Q And what -- what happens when you get back there?

25 A Really, ain't nothing happened. We was just in the

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1 alley.

2 Q Did anybody know if somebody got hit or not?

3 A We ain't know nobody got hit until like probably the
4 next day or something. Somebody was -- the dude, Donnie
5 -- the dude named Donnie, he was like -- he said, Wah-Luck did
6 it. And they was like, how can you say -- people was saying,
7 how can you say Wah-Luck did it?

8 Something -- Wah-Luck went up there and was talking
9 to them or something. That was that.

10 Q When did you find out who it was that actually got
11 shot?

12 A The next day, my brother told me, because my brother
13 be up there with them, with the dudes.

14 Q Now, when you say, up there with them, you're
15 talking about the guys from the bottom half of Stanton
16 Terrace, right?

17 A Yeah.

18 Q All right. And they're a slightly different group
19 than the guys from the top half that you're actually beefing
20 with, right?

21 A Yeah.

22 Q But, some of the guys from the bottom were actually
23 helping out the guys from the top, right?

24 A Correct.

25 Q All right. And was that why Wah-Luck and -- I think

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1 you said it was Rocky were talking about, should we just get
2 at them anyway?

3 A I can't say that was the reason, but they just shot
4 at them.

5 Q I mean, is there any other reason why Wah-Luck or
6 Rocky would want to shoot at these guys, other than their
7 involvement with these --

8 A As far as I can say about Rocky, I mean, he -- he
9 can use a reason because back in '93, they was beefing with
10 the bottom. So, that could be a reason with Rocky, back in
11 '93.

12 Q So, at one point back in '93, there was also a beef
13 with the guys from the bottom, as well?

14 A Yeah.

15 Q All right.

16 A And at the top, but it wasn't -- the top -- it was
17 just some of the dudes at the top with the bottom.

18 Q And, in fact, there had been even before all of this
19 started in the robbery of Pop and Lala, there had been some
20 -- I guess for lack of a better word, there's even been a beef
21 before that between the 1-5 mob and Stanton Terrace guys
22 before, right?

23 A Yeah. At that time, it was me -- Wah-Luck was
24 locked up at that time. At that time, me and J.J. and all of
25 us, we ain't had nothing to do with it. At that time, they

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1 was just beefing with the dudes that just be on 15th. And, at
2 that time, we just see Stanton Terrace walk past us and they
3 go shooting and then run back up there. They go up there,
4 come back.

5 At that time, it wasn't -- you know, we ain't had
6 nothing to do with that.

7 Q You guys were trying to stay out of it at that time.

8 A At that time -- well, we ain't -- at that time, we
9 didn't even have to try. They knew we ain't had nothing to do
10 with it. They were just -- they'll see us and just say,
11 what's up. And then they'll go on 15th and shoot.

12 Q So, that was more of a limited beef in terms of not
13 as many people were involved.

14 A Yeah.

15 Q All right. Getting back to -- I'm sorry. Getting
16 back to when Mark Barnes got shot, so you find out the next
17 day that he got shot?

18 A The next day.

19 Q All right. Did you know Mark Barnes?

20 A I knew him, but on the street, it was just -- it was
21 like we ain't -- it was like, we ain't get along. It was
22 like, if I see him ride past my neighborhood, I be like, what
23 did he ride past it for?

24 If I ride past his neighborhood, he be like, what am
25 I riding past there for?

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1 So, it be -- it be seeming like one of us up to
2 something. So, it wasn't like, but since we got locked up, we
3 been all right.

4 Q Okay. So, you've actually seen him since you been
5 locked up?

6 A I been seeing him for -- I been seeing him for the
7 last 18, 19 months.

8 Q You're locked up in the same place?

9 A CTF, out in Virginia, just running into him.

10 Q And have you guys had any problems since then?

11 A Never had any problems.

12 Q Now, do you know whether or not Barnes was actually
13 with the beef in terms of, was he one of the guys that was
14 helping the Stanton Terrace guys from the top?

15 A He could have been. I can't say.

16 Q You don't know one way or the other?

17 A I don't know. He could have been.

18 Q Do you know whether or not anybody actually intended
19 to shoot Mark Barnes in particular as opposed to anybody that
20 was out there?

21 A No, because at the time, you couldn't see who it was
22 that they was shooting at. They was just -- it was just
23 -- you could just see some dudes standing over there by the
24 car with Eddie Bauer coats on. You couldn't see who it was.
25 So, all you see is dudes walking back and forth, walking back

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1 and forth.

2 It was so dark, you couldn't tell who it was. You
3 couldn't tell who it was.

4 Q So, they could have shot anybody up.

5 A They could have shot anybody.

6 Q Now, you've mentioned this person by the name of
7 Cooler on a couple of different occasions. Was there a time
8 when he got shot?

9 A Yeah, there was a time when he got shot.

10 Q Can you tell us about the time when he got shot?

11 A He was standing in the court on Congress. At time,
12 me and Wah-Luck was on Stanton Road at the top. And we had
13 -- we had got a call saying that the dude's around there. So,
14 me and Wah-Luck walked up to the top.

15 Q Wait a minute. When you said you had gotten a call,
16 a call from who?

17 A Somebody -- somebody had called somebody around the
18 neighborhood. And the message got back to Wah-Luck.

19 Q Saying what?

20 A Saying that some dudes was going to come around
21 there.

22 Q Some of the Stanton Terrace guys?

23 A It could be some Congress Park dudes, because they
24 be down -- some dudes be in Congress Park, too. So, they was
25 just saying -- you could say the Stanton Terrace guys, because

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1 that's who it is. But, the --

2 Q Some of the guys who --

3 A Yeah.

4 Q -- were going to be beefing with you. It could be
5 Congress or it could be Stanton Terrace.

6 A It could be Congress Park, too.

7 Q Okay. Go ahead.

8 A So, they was saying the dudes going to come around
9 there. So, me and Wah-Luck had walked up to the top of
10 Stanton Road. And, at the time, I had called my cousin and
11 told him to come around. He was coming around there. So, he
12 parked his car at my grandmother's house and walked through
13 the cut.

14 At the time he was walking through the cut, he ran
15 into three dudes. I think it was Tweety, Junie and somebody
16 else. So, at the time he ran into him, but he ain't run into
17 them like face up like. They was like across the alley and he
18 was in the cut.

19 And he was asking -- he was hollering, telling them,
20 say their names, who they is. They wouldn't say their name.
21 So, he pulled his gun out. They pulled their gun out and they
22 started shooting at each other.

23 Then -- so, at the time, we run down the street, ran
24 into my cousin. By the time, they was gone.

25 So, we walked back up the street. So, we just up

1 the street over at Mush's house, just standing on the front
2 porch.

3 So, at that time, that's when -- when they ran back
4 where they came from, they went and jumped in the car and rode
5 past Congress, did a drive-by on Coolie -- Cooler and them,
6 shot Cooler in the leg.

7 And then they made the left towards us coming up
8 Stanton Road. But they ain't know we was up there. So, they
9 was coming up. So, when they rode past, we started shooting
10 at them. And they kept going down Suitland Parkway.

11 Q And who was it who was shooting at them?

12 A Me, Munsey and Wah-Luck.

13 Q And Cooler got shot where, do you know?

14 A He ain't actually get shot. He got like grazed in
15 the leg.

16 Q Grazed in his leg?

17 A Yeah.

18 Q Now, was there another time when somebody tried to
19 get at you when you had a bunch of children in the car?

20 A Yeah.

21 Q Can you tell us about that?

22 A I had two girls in the car and like about four kids.
23 And I was coming from the Star Carry-out. And I was making a
24 right at a stop sign. And they was coming down. So, when I
25 was making the right, I was looking at them and they looked at

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1 me. So, they tried to bust a U real fast.

2 So, I hurried up, pulled in the alley, threw the car
3 in park, grabbed one of the kids. And, at the time, the
4 little kids, they knew what was going on. So, they started
5 running towards the house. So, I ran -- ran in the house.
6 Then I got the kids in the house.

7 Then I got -- I called Mush and Funky. So, they
8 came outside. So, I came outside.

9 So, they told me to go ahead and get back in the
10 car. I got in the car and went on home.

11 Q So, Mush and Funky -- excuse me -- Mush and Funky
12 came out to watch your back?

13 A Yeah.

14 Q And then you left and went home?

15 A I left and went home.

16 Q On July 27, 1996, there were some people that were
17 shot up on Stanton Terrace at the recreation center. Are you
18 aware of that?

19 A Yeah.

20 Q Were you actually in the neighborhood at the time
21 that that shooting happened?

22 A No. I could say I was probably on my way around
23 there or I just -- must have just got around there on time or
24 something, because I didn't hear the shooting. I just know
25 that when I came in the alley --

1 Q Now, which alley is this? Same alley you're talking
2 about?

3 A Same alley. They was teasing -- they was teasing
4 Nardy, the way he was driving the truck. He must have -- he
5 was driving the truck slow after they must have did the
6 shooting and stuff.

7 Q Who's doing the talking here?

8 A ODB.

9 Q So, ODB. Are there other guys around, too, or is it
10 just ODB?

11 A Just -- it was other guys around, laughing and all
12 that. But it was ODB was teasing Nardy, saying that he was
13 driving, you know, messed up.

14 Q Well, when you first come around and you join in the
15 conversation, what is -- does ODB talk about what actually
16 happened?

17 A Well, when I walked up, they was already talking,
18 laughing and all that stuff. By that time, I went up there
19 and they was talking about it. So, I was like, yeah, he was
20 driving like that, you know.

21 So, he was like, yeah, he was driving slow.

22 So, Nardy was like, nah, I wasn't driving. He was
23 driving, you know, normal. He ain't want to drive fast where
24 the police can get on him or something. He said he wanted to
25 drive normal and all that, so.

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1 Q Did you know about the shooting at that point when
2 you --

3 A Yeah, because they was talking about the shooting.
4 They was like, they rolled past, seen the dudes out there and
5 started shooting.

6 Q So, this is Nardy and ODB talking about what they
7 did?

8 A Well, it was just really ODB. Nardy wasn't talking
9 about the shooting. He was just talking about, driving. ODB
10 was just -- was just saying that they rode past and started
11 shooting and a whole lot of people was out there. I think it
12 was a band or something up there.

13 Q Did they indicate what kind of vehicle they were in?

14 A They was in some kind of pick-up. They wasn't in a
15 pick-up. They was like in a jeep. Like a -- I can't think
16 what kind of jeep it was. It was like a -- Suzuki Sidekick,
17 something. It was something like that.

18 Q Like a sport utility vehicle.

19 A Trooper or something, yeah. That's the kind it was.

20

21 Q All right. Had you seen the actual vehicle before?

22 A I seen it before, but the dudes that was supposed to
23 did the crime, they wasn't driving it. There was two girls
24 driving it before. I think it was a pipehead van or
25 something, but it was two girls driving it when I first seen

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1 it before. That was like probably a couple of days before
2 that.

3 Q All right. Now, did you ever find out what kind of
4 weapons were used in that shooting at the recreation center?

5 A As far as I know, it was an AK --

6 Q Whose AK?

7 A -- a 40. I think it was Mush's AK.

8 Q Okay. Who had the AK, if you know?

9 A Funky.

10 Q Did you ever have a conversation with Funky while
11 you were at the jail about this?

12 A Most likely I told -- I asked him about it. He was
13 like -- I was -- no, what it was, I was like I heard about
14 Nardy was driving. He was like, yeah, man. Nardy could have
15 got us caught up and all this and that.

16 We rode past. He was telling that he rode past and
17 shot. He said he seen -- seen Pooh and some other dudes out
18 there. They just started -- they just started shooting and
19 stuff.

20 Then they rode -- they rode off. I think they took
21 the long way back or something, something like that. They
22 took the long way back towards -- to where -- to around our
23 way.

24 Q And were you -- you were at the jail at the time
25 when this conversation happened?

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1 A Yeah, I was at the jail.

2 Q Did Funky ever say anything to you about the AK?

3 A He didn't say nothing to me about probably like as
4 far as they shot it. I mean, he said he shot it. I mean, he
5 had the AK. He said he had the AK.

6 Q And --

7 A He didn't tell me that he hit somebody with it, but
8 it was already stares around the area, way around it that some
9 people got hit, so.

10 Q At a later point in time, did he tell you anything
11 about what happened to the AK?

12 A We was over at CTF and the police had ran into his
13 house. And they found the AK in -- in a -- they came to the
14 jail and searched the jail, searched his room and stuff, found
15 pictures and stuff. But they ain't charge nobody for the AK.

16 Q So, he told you, though, that the police had gotten
17 the AK?

18 A Yeah.

19 Q Now, this person by the name of Idaho that we've
20 talked about once before, there was a point on August 13, 1996
21 when you shot him; is that correct?

22 A Yeah.

23 Q All right. And you shot him because you were afraid
24 that he was going to potentially tell the police that you had
25 done that shooting of the police officer, right?

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1 A Yeah.

2 Q Had he been talking it up in the neighborhood that
3 he was going to give it up? Or why did you believe that he
4 might tell the police?

5 A Because before -- before I even shot him, he got
6 shot 17 times once before. And then he turned around, got
7 stabbed eight times in his sleep. Then he turned around, got
8 shot again. Then he turned around and got stabbed again.
9 Then I -- that's when I shot him, so.

10 Q He's a man with nine lives.

11 A Yeah.

12 Q But, what I'm trying to figure out is why -- why was
13 it that you decided that you would shoot him? I mean, he was
14 -- was he talking it up in the neighborhood?

15 A For one -- for one, we wasn't friends no more
16 because we got into it a couple of times. You know, there was
17 one time he was trying -- you know, me and him was getting
18 -- it wasn't nothing important, but we got into it. So, I
19 ain't like him. He ain't like me. But, we see each other, we
20 might say, what's up, something like that.

21 But, at the time, the dude I was hanging with
22 couldn't stand him because he supposedly had told on Tommy and
23 them once before or something.

24 Q He had told on Tommy Edelin?

25 A Yeah, once before or something. So, that's why the

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1 reason he supposed to had got shot up 17 times that time.
2 But, he had told two girls that he was going to tell on me.
3 He was going to get some money or something. So, they was
4 telling me about it. So, I was like, yeah.

5 So, every time I come around him, he just leave. He
6 don't never, you know -- he just leave. He don't -- you know,
7 he usually stay around, but he just leave, so.

8 This one particular he just left. So, he went on
9 Alabama Avenue in the court. That's when I went around there
10 and just shot him.

11 Q Now, you've actually -- you plead guilty to that
12 shooting, correct?

13 A Correct.

14 Q We talked about that when you first came into the
15 grand jury, right?

16 A Correct.

17 Q All right. So, we won't go into any more details on
18 that. Now, do you remember a time when there was a shooting
19 near Hunter Pines, a neighborhood that's close to you? I'm
20 sorry. Before we get to that. You know a person by the name
21 of Egg and Cheese, correct?

22 A Yeah.

23 Q And he's dead now, right?

24 A Yeah.

25 Q And do you know what his real name is?

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1 A Anthony Howard.

2 Q Were you actually out there at the time that Egg and
3 Cheese was killed?

4 A No.

5 Q How did you find out about him getting killed?

6 A Next day we was going to King's Dominion and --

7 Q King's Dominion?

8 A Yeah. And --

9 Q The day after he was murdered?

10 A Yeah. So, everybody was like feeling sad on the
11 bus, but I ain't -- you know, I ain't know. So, somebody told
12 me on the bus. And then that's when everybody -- it was like
13 everybody went to King's Dominion, but ain't nobody had no
14 fun. So, it was like, everybody at King's Dominion was sad
15 faces walking around, sad faces.

16 Q Because he was one of your boys?

17 A That was my cousin, so it was like, everybody had
18 sad faces. So, after we came back, that was that.

19 Then rumor that -- they was saying that Junie
20 supposed to did it. So, I'd say about that Monday -- that
21 Monday -- no, that Tuesday, I was coming from the liquor
22 store. And I made the right at Suitland Parkway light.

23 The dude that supposed to kill him was at the light
24 talking on the phone.

25 And I made the right. And I looked at him and he

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1 looked at me. So, I slowed down like I was making the left
2 into an alley -- the alley from off Bruce Place.

3 So, he got to shooting at me. So, I --

4 Q Who is this?

5 A Junie. So, when he was shooting at me, I stopped
6 the car. I was looking like in the mirror -- my mirror. So,
7 he stopped shooting. He was still sitting at the light.

8 So, I backed the car up real slow and was like
9 -- when I backed it up and then the front of the car like
10 facing him, so he jumped out the car. I could see him put
11 another clip in the gun. So, he started shooting again. So,
12 I just pulled off and went down the alley.

13 So, I stopped in the alley. I blew the horn. Funky
14 got in the car, him and ODB. The dude, Melvin, was in the car
15 with me. He got out. Funky and ODB got in the car. So, I
16 pulled off.

17 So, we went up there. We ain't see him up there.
18 So, we went down like Hunter Pines. So, I was coming up.

19 So, one of the dudes from up there was walking down.

20 Q One of the dudes from up where?

21 A From up Stanton Terrace. So, ODB jumped out the car
22 and ran into the cut where the dude was going to.

23 So, I turned around and went down the hill. Now, I
24 went on the next street.

25 Now, I'm coming up the hill on the next street. So,

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1 I'm thinking that ODB is going to come out of the cut.

2 So, at the time I'm coming up the hill, I hear a
3 rack of gunfire. So, by the time I'm coming up the hill, I'm
4 thinking ODB is going to come out of the cut. But the dude
5 come out of the cut and started shooting at the car.

6 So, I go up and make the right. And ODB was on the
7 right. So, he jumped in the car. And I took him in the
8 alley, dropped him off and I went on in the house.

9 Q What did ODB say when he got back in the car?

10 A He said that when he ran in the cut, he said that
11 the dude stopped. And he said the dude pulled out his gun, so
12 he just started shooting and the dude started shooting back.
13 So, that was it. Then the dude took off running.

14 Q And the intention was for ODB to run out there and
15 shoot him, right?

16 A Yeah.

17 Q So, you get ODB back in the car and then you guys go
18 back up.

19 A Go back up the hill.

20 Q To the home territory at Stanton Dwellings?

21 A Mm-hmm.

22 Q And just kind of to summarize that one, basically
23 there's a shooting that happens where Junie tries to shoot at
24 you while you're up in the Stanton Dwellings area, right?

25 A Yeah.

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1 Q And then you picked up Funky and ODB and you're
2 riding around looking for Junie to try to shoot him, right?

3 A Yeah.

4 Q And then you end up down in Hunter Pines where you
5 see another Stanton Terrace crew member down there, right?

6 A Yeah.

7 Q And that's when ODB jumps out and tries to shoot
8 him.

9 A Yes.

10 Q But that guy ends up shooting back at him, as well.

11 A Started shooting back.

12 Q All right. And then you end up back in Stanton
13 Dwellings.

14 A Back in Stanton Dwellings.

15 Q And does anybody actually get shot in that one?

16 A No.

17 Q Not that you're aware?

18 A Ain't nobody get shot.

19 Q Okay. Now, I'll tell you what. Why don't we break
20 here?

21 MR. PFLEGER: I think we're going to take a break
22 right here.

23 (Whereupon, at 11:55 a.m., the lunch recess was
24 taken.)

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A F T E R N O O N S E S S I O N

BY MR. PFLEGER:

Q Now, Mr. Green, when we left off, we were talking about a whole series of shootings that had happened between the Stanton Terrace crew guys from the 1800 block and the 1-5 mob. Do you recall that?

A Yes.

Q All right. And we just have a few more things we have to take care of and then you should be done with the grand jury for now, at any rate.

Mr. Green, you previously testified that back on September 5, 1996, you were arrested at your house during the course of the search warrant, if I remember correctly?

A Yes.

Q And at that point in time, they actually recovered a gun from your house?

A Yes.

Q All right. And you were also arrested on the shooting that you had done with regard to Ira Clayton or Idaho, correct?

A Yes.

Q All right. Now, that arrest and that search warrant actually took place during the morning of September 5th, correct?

A Yes.

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1 Q All right. Later on that day, did somebody get
2 killed, do you know, on September 5, 1996? Well, who is the
3 next person that got killed after you were arrested, do you
4 know?

5 A Junie.

6 Q Okay. And Junie was a member of the Stanton Terrace
7 crew?

8 A Yeah.

9 Q All right. Now, Junie was somebody who was a target
10 throughout most of this beef. He was the target of the guys
11 from the 1-5 mob, wasn't he?

12 A Yeah.

13 Q Now, you -- obviously, since you were in jail, you
14 were not actually out at the time that Junie was killed; is
15 that correct?

16 A Correct.

17 Q And how did you first learn about Junie being
18 killed?

19 A I had a visit when I was locked up. And Wah-Luck,
20 my mother and my girlfriend came over there to see me.

21 Q Came to see you where?

22 A Over at D.C. jail. My mother had got up to talk to
23 me, so she like moved to the side, so Wah-Luck was talking to
24 me. So, I asked -- I told him I heard Junie got killed. And
25 he was like -- he just nodded his head, yeah. So, he gave me

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1 that same eye like, you know, that he did it. So, I just left
2 that alone because I ain't want to talk about it in front of
3 my mother.

4 Q Was this the same kind of look that he had given you
5 when he also acknowledged that he had done Spook's murder?

6 A It was -- it was just like -- it was like the same
7 kind of look, but -- but he said, yeah, this time. He was
8 like, yeah, he got killed. But he was like that. He gave me
9 the eye with it, too. So, I left that alone.

10 Q But your understanding from the way he had
11 communicated to you was that he was saying that he had done
12 it?

13 A Yeah. He ain't tell me he done it. I just -- you
14 know, went by the expression on his face.

15 Q Did there come a point in time later on when you had
16 an opportunity to actually have a conversation with him about
17 the murder of Junie?

18 A Yeah.

19 Q And where were you when you had that conversation?

20 A In my cell over at the jail in my room.

21 Q And where was he?

22 A He was in there with me.

23 Q So, he -- he eventually himself was arrested and he
24 actually came and visited you?

25 A He came in the block with me.

1 Q Okay. Now, you were at the jail until sometime
2 after -- after Thanksgiving of 1996, but before Christmas of
3 1996, correct?

4 A Correct.

5 Q So, this happened sometime after his arrest and
6 before you got shipped out from the jail, correct?

7 A Correct.

8 Q All right. And can you tel us, had you guys seen
9 each other before this or was this the first time you had seen
10 each other since you had gotten to jail -- well, since both of
11 you were in jail?

12 A I mean, I seen him when he came in. I seen him
13 -- all right. When he first came in the jail, I seen him but
14 he wasn't in the block with me. We didn't get a chance to
15 talk, though.

16 Then he moved in the block with me. And --

17 Q Which block is this that you're talking about, do
18 you remember?

19 A Northwest 2.

20 Q Northwest 2?

21 A Yeah.

22 Q Do you have a memory of what your cell number was?

23 A Twenty-nine.

24 Q Twenty-nine. And he was in the same block with you
25 in Northwest 2?

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1 A Yeah, he was in 36.

2 Q So, what happened? He comes over and you're just
3 talking?

4 A We just -- I was in my room. His room like across
5 from mine. So, he came from over his room to over my room.
6 And we were just in there talking, smoking cigarettes and
7 stuff. He don't smoke, but I was in there smoking cigarettes.

8 And one of the dudes from up Stanton Terrace at the
9 bottom was in there with us, too.

10 Q Who was that?

11 A Jerkbone. We was in there talking. So, we was just
12 talking and stuff that Wah-Luck was telling the man, Jerk, how
13 he did it and stuff.

14 Q Now, in as much detail as you can remember, can you
15 explain to the ladies and gentlemen of the grand jury what it
16 was that Wah-Luck told you happened, from the beginning?

17 A They was riding, him, Rocky and ODB in the cab.

18 Q And what cab are you talking about?

19 A It was -- they had a stolen cab.

20 Q Is this a taxicab you're referring to?

21 A Taxicab.

22 Q Okay.

23 A They riding around. Well, they riding up the
24 Stanton Terrace neighborhood.

25 Q Why were they doing that?

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1 A Because they was looking for somebody.

2 Q Looking for who?

3 A Whoever was with Stanton Terrace or with the beef.

4 Q So, they were looking for any of the Stanton Terrace
5 crew guys?

6 A Yeah. So, they see Junie walking down the street.
7 So, they pulled -- pulled -- I guess pulled beside him. He
8 started shooting. Rocky started shooting at him.

9 Q Who started shooting first?

10 A I think Rocky started shooting first. They started
11 shooting at each.

12 Q So, Wah-Luck tells you that Rocky started shooting
13 first?

14 A Yeah, he tell me that. Really -- really, Wah-Luck
15 ain't tell me exactly that Rocky started shooting first. He
16 just said, they started shooting. But, ODB told me Rocky
17 started shooting first.

18 Q Okay. We'll get to ODB later. Let's stick with
19 what Wah-Luck told you.

20 A And Rocky started shooting. So, they shooting at
21 each other. I guess Rocky ran out of bullets. And Wah-Luck
22 jumped out of the car and shot him in his back. Then Junie
23 fell. Then Wah-Luck say he walked up on -- walked up on
24 Junie. And I think Junie still alive, but he couldn't move, I
25 think. I think he was still alive, but he couldn't move.

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1 But, however it was, he had -- he was laying down on
2 his stomach, I think, with the gun he had in his hand. I
3 think it was -- it was jammed or something, because he tried
4 to shoot -- shoot Wah-Luck while Wah-Luck was over the top of
5 him.

6 But, Wah-Luck said he didn't know that the gun was
7 in his hand. He forgot all about that the gun was in his
8 hand. He said, his mind was somewhere else. He said he took
9 the gun from him and hit him with the gun and then shot him
10 and ran back to the car.

11 Q So, he -- so, Wah-Luck says that he ends up taking
12 Junie's gun?

13 A Taking his gun.

14 Q And does he shoot Junie with the gun that he --

15 A His own gun.

16 Q With his own gun.

17 A His own gun, because I don't -- he ain't had no more
18 bullets in his gun.

19 Q So, he had fired all of his bullets?

20 A Yeah, he shot all of his bullets out of his gun.

21 Q Did he tell you what kind of gun that he had before
22 he picked up Junie?

23 A As far as I know, it was a 40, a 40.

24 Q Is that what he told you or is that just what you
25 know from being out on the street?

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1 A That's what I know when I just had left, because,
2 see, when I left it, the cab was out there. I left -- I was
3 out there when the cab was out there. When I left -- I came
4 to jail, the cab -- they still had the cab. But I ain't know
5 they still had the cab.

6 Q And so that when you left, when you say you left,
7 when you got arrested on September 5th, the last gun that you
8 knew that Wah-Luck had was a 40 caliber?

9 A Forty.

10 Q And do you know where that gun came from?

11 A It might have came from my cousin.

12 Q But you're not sure?

13 A I'm not sure.

14 Q All right. And then did Wah-Luck indicate to you
15 what he did with the 9 millimeter -- or with the pistol after
16 he took it from Junie?

17 A No, he ain't tell me. I know he told me that he
18 -- he hit him with -- I think he hit him with his gun and then
19 took -- took the gun from Junie. Yeah, because -- yeah, he
20 was hitting Junie. And he heard something click. That's when
21 he seen the gun in Junie hand. He took the gun out Junie
22 hand. And I think he hit him again and then he shot him. And
23 then he just ran back to the car.

24 They -- while he was doing that, Rocky and ODB was
25 calling his name. So, when he got back in the car, he told me

1 that he said something to ODB, calling his name out loud,
2 something like that.

3 Q He was upset with ODB for calling his name out?

4 A Yeah, calling his name out, but he let it go. Then
5 ODB had shot hisself in the leg.

6 Q Did Wah-Luck tell you this?

7 A At the time when it was going off. At the time.

8 Q Listen to my question. Did Wah-Luck tell you this?

9 A Wah-Luck tell me what?

10 Q About ODB shooting himself in the leg?

11 A Yeah, he told me that, too.

12 Q He did tell you that?

13 A Yeah, he told me that, too. He said -- he said, ODB
14 -- he said, ODB stupid. He said, ODB stupid ass shot hisself
15 in the leg, like that.

16 So, I was like, yeah.

17 So, when I went to court -- I was going to court and
18 I seen ODB down at R&D. And they was putting these --

19 Q What is R&D?

20 A -- chains on us. They get you ready to go to court.
21 So, they was putting these chains on us. So, I seen him in
22 his cell. He was in juvenile part.

23 So, I was talking to him through the bars. So, he
24 was telling me the same thing, but it was like -- he told me
25 that they just rolled up and seen Junie and Rocky started

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1 shooting. Junie started shooting back. Then Wah-Luck jumped
2 out.

3 He said he shot hisself in the leg.

4 So, I asked him, let me see the bullet wound. So,
5 he showed me the bullet wound. The bullet wound was healed
6 up.

7 So, I was like -- I was like, why you go to the
8 hospital? He was like -- I said, what they -- what the
9 hospital do?

10 He said, they just poured peroxide in there and
11 cleaned it and that was it.

12 I said -- I told him that he could have did that
13 hisself, you know what I'm saying?

14 So, he was like, yeah. But, he was like -- he was
15 like, I ain't tripping, though, because I put it on the dude
16 named Dawan, this other dude from Barry Farms. So, I was
17 like, all right.

18 So, when I got back to the jail -- when I went -- I
19 left and came back, I told Wah-Luck what he was saying. He
20 was going to put it on two other dudes. So, that was that.

21 And I wasn't in -- I wasn't in their business no
22 more. That was their case.

23 Q Well, let's back up for a second. When you said he
24 was going to put it on two dudes, one Dawan and another guy.

25 A Some other dude.

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1 Q Did he give the name of the other dude?

2 A He gave the name. I just can't remember the name.

3 It was some dude down in Barry Farms that he grew up with. He
4 used to live down in Barry Farms. So, he said he just gave
5 the name up. I just know the dude that he's talking about was
6 living in Barry Farms.

7 The other dude he talking about live around our way
8 is a young dude. And he don't do nothing, probably just steal
9 cars and stuff, something like that.

10 Q Now, this guy, Dawan, who is he telling this? Who
11 is he -- who is he telling that he put it on Dawan or
12 something like that?

13 A Who is he telling it to?

14 Q Right.

15 A He was telling it to me.

16 Q Okay. No. But, I mean, when he's telling you, I
17 put it on Dawan, okay, who is he saying that he had done that
18 to? Do you understand my question?

19 A No.

20 Q Okay. Was ODB indicating to you that he spoke to
21 somebody else about Dawan?

22 A No. I'm saying, he was telling like he talked to
23 the police. So, I think when he got shot, he went -- he was
24 at the hospital. The doctor wouldn't see him. So -- until
25 the police get there. So, the police had to question him.

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1 Then, while the police question him, then the doctor
2 -- you know, treat his leg.

3 But, at the time, the police wasn't there, the
4 dude's family was trying to fight him.

5 Q What dude's family?

6 A The dude, Junie, family trying to fight him or
7 something.

8 Q This is what he's telling you?

9 A Yeah, this is what he was telling me. And -- and
10 they was trying to fight him. Then they was asking him
11 questions. The police came and they was asking him questions
12 or something.

13 He told the police that it was Dawan and some other
14 dude from Barry Farms.

15 Q So, he indicated to them that he knew something
16 about the murder and that the people that were responsible
17 --

18 A Yeah, he knew some -- he knew some other murder.
19 They ran -- I think they ran in his house and got him. I
20 think they ran in his house and got him, I think. I think
21 that's what he told me. I think they ran in his house and got
22 him. I can't -- I can't remember right now, but.

23 Q But you're clear that he was trying to -- he was
24 trying to say that he had told the police that it was a guy
25 named Dawan and some other guy?

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1 A No, I'm sure about that. I'm sure that -- I'm sure
2 about that. He told me that he told the police it was two
3 other dudes that did it.

4 Q Did he ever indicate to you what kind of weapon he
5 used?

6 A As far as -- as far as I know, it was a 38. It was
7 a 38 that he had, because he said -- that's all he had was a
8 38 when I was out there. And when I was locked up, he had a
9 38. Because when he shot himself, it was clicked back. And
10 he said he didn't mean to do it.

11 He said, he just had it like this, like towards his
12 -- towards his -- you know, his knee, but it was down, he
13 said. It was a trigger. He had accidentally hit the trigger.
14 And the trigger easily go off when you -- you don't even have
15 to have it in your hand most of the time. You can just hit
16 your leg and it go off. So, it went off.

17 That's when Wah-Luck came back to the car and they
18 pulled off.

19 Q Did you know a person by the name of Sherman
20 Johnson?

21 A Yeah.

22 Q Or just known as Sherman? Was he -- I think
23 actually I may have asked you this before. He was actually
24 connected in terms of he grew up in the neighborhood of
25 Stanton Terrace, right?

1 A Yeah.

2 Q Now, he died in -- on September 15, 1996. You're
3 aware that he died, correct?

4 A Yeah.

5 Q All right. Did you have a conversation with
6 somebody in the jail about his murder?

7 A Yeah.

8 Q Who did you speak with about his murder?

9 A Funky.

10 Q Now, when Funky first came in the jail, how did you
11 get -- how did you get in touch with him or how did the two of
12 you guys end up talking?

13 A Me, Wah-Luck and all of us in the block. Funky came
14 in there on another charge.

15 Q When you say on another charge, what do you mean?

16 A He came in on a violation or a gunshot. He came in
17 on something. He was -- he had a charge. So, he came in.
18 Came in. Came to jail. And he was telling us -- he was
19 telling me how -- when he was at a party one night or
20 something, Sherman with some Stanton Terrace dudes. And they
21 was outside. He was scared to come outside. Something
22 Sherman was doing a rack of faking or something, he was
23 saying.

24 Q What does that mean, he was doing a rack of faking?

25 A That mean he probably grinning or maybe pull out a

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1 gun, something he did, you know what I'm saying, that scared
2 Funky. So, Funky said he seen him one day. He rode past.
3 And then he came back. Said Sherman was standing outside on
4 the porch or something. He said he ran towards Sherman with a
5 gun. The dude that was with Sherman ran. Sherman stood there
6 and was like, I ain't got nothing to do with it.

7 Next thing I know, Sherman got killed right there on
8 the spot.

9 Q Did he say that he was the one who shot Sherman?

10 A Yeah.

11 Q Did he indicate what kind of gun he used in the
12 shooting?

13 A No.

14 Q No. Now, was anybody else present for this
15 conversation besides yourself and Funky?

16 A I don't remember -- like when I was over at the
17 jail, Funky was over there with me. And then I moved over to
18 CTF. He was over -- over at CTF with me. So, I can't
19 remember exactly where did he tell me that. I can't remember
20 that he told me over at the jail, because he was over at the
21 jail with me for some months. Then he -- and I moved over to
22 CTF. He moved over there with me.

23 I can't remember if it was over CTF. I just can't
24 remember which part of the jail he told me. I don't remember
25 right now.

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1 Q But you were in the jail or the CTF, one or the
2 other?

3 A I remember I was in jail. I wasn't down -- I wasn't
4 down in Lorton then. But I remember when he told me, I was
5 either one of them. I can't remember which one I was over.

6 Q The CTF is kind of a part of the jail in the sense
7 that it's connected or in the same area as the jail?

8 A Well, CTF, it was like part of the jail. It was
9 like -- CTF was like an Act unit, drug program and place -- it
10 was like a place that they send you at and then you go over
11 the hill. Over the hill is down in Lorton. It's different,
12 you know what I'm saying, different levels. It depends on how
13 much time you got. But they changed it now, so CTF ain't CTF
14 no more. It's CTA. It's the same -- same people own that,
15 same people own Ohio.

16 Q You mean, the --

17 A It's different. Now, the jail don't got nothing to
18 do with it no more.

19 Q When you say the same people who own Ohio, you're
20 talking about lock-up facility in Ohio?

21 A CTA.

22 Q And that's -- that's also where you had served some
23 of your time, as well, right?

24 A Yeah.

25 Q So, you've been to Ohio, you've been to CTF, you've

1 been to the jail, you've been down at Lorton, you've been to
2 all these places, right?

3 A Yeah.

4 MR. PFLEGER: I need to review a few notes. But if
5 anybody wants to ask a question, this would be a good time if
6 you have any that you want to follow-up on.

7 (Pause.)

8 BY MR. PFLEGER:

9 Q Have you seen either Wah-Luck or ODB since the time
10 when you had the conversations with them at the jail?

11 A I seen Wah-Luck when I left from over the jail, went
12 down to Lorton. I came back and went to CTF. And I went back
13 over to jail. I went to Northwest 2. I was in Southwest 2.
14 I went to Northwest 2 and was just talking to him, gave him a
15 pair of tennis shoes. And I was talking to him through the
16 side port. Then that's when I just left.

17 Q Did you guys talk about anything that was going on
18 out on the street or anything like that?

19 A No, because we couldn't talk about it, because Kevin
20 Gray and a whole lot of dudes in the side port talking, Funky.
21 Everybody was in the side port talking, so we couldn't talk
22 about nothing that was going on on the street.

23 Q Now, Tweety, what ultimately happened with him?

24 A All I know, I found out he got killed when I was out
25 in Virginia.

1 Q When you were out at Lorton?

2 A Virginia.

3 Q Out in Virginia.

4 A No. No, he got killed when I was down in Lorton,
5 because -- he got killed when I was down in Lorton, but I just
6 had left and went to Ohio. And then that's when I came back
7 and I went out in Virginia, because his uncle was out in
8 Virginia with me, so that's why I thought he got killed when I
9 was out in Virginia.

10 Q Who's his uncle?

11 A His name -- his last name Watson, but I forgot his
12 first name. He been in a lot -- a lot of years. I forgot his
13 first name, though.

14 Q Did you -- how did you find out about Tweety being
15 killed?

16 A Well --

17 Q Who told you that?

18 A Well, when I was down Occaquan, me and the dude from
19 Stanton Terrace was hanging together. We was down there.

20 Q Who's the dude from Stanton Terrace; do you remember
21 his name?

22 A Donk.

23 Q Donk?

24 A Yeah. And we was down there. And he messed with
25 Tweety, so after Tweety got killed, somebody sent him the prom

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1 picture that night he got killed, sent the prom picture.

2 Q What do you mean, sent the prom picture? Whose
3 prom?

4 A He went to a prom that night, the night he got
5 killed. And the prom picture that he took, he sent it to
6 -- somebody sent it to Donk. So, Donk was showing me the
7 picture and was telling me that Tweety got killed. So, that
8 was that.

9 Then when I got out in Virginia, I ran into Tweety's
10 uncle. And he was telling me, yeah, my nephew hang around
11 there where you live at. So, he was like -- he was like, yeah
12 -- I asked him, what's his nephew's name. He told me. I was
13 like, yeah.

14 And then we got to talking about his nephew, this
15 and that.

16 Q His nephew being Tweety?

17 A Yeah. So, he told me that dudes around there killed
18 his nephew. So, I was asking, who the dudes that killed his
19 nephew. And he was like, Wah-Luck and Blue. So, I was like,
20 yeah.

21 Q Wah-Luck and Blue?

22 A Yeah.

23 Q Was Wah-Luck --

24 A I mean, Squid and Blue. I mean, Squid and Blue. I
25 apologize. I mean, Squid and Blue, because Wah-Luck was

1 locked up. I meant to say Squid.

2 But, he was telling me that he was -- he was riding
3 -- riding from the prom or something. His girl was driving or
4 something. And a car pulled in front of him and they ran up
5 on the car. And Tweety -- Tweety covered the girl up for she
6 wouldn't get shot. They shot up -- shot him all in his back
7 and stuff. I think that's how it was.

8 Q Now, did you ever talk to either Squid or to Blue
9 about that shooting?

10 A No, because Blue came -- Blue came to jail for
11 something he did with his baby's mother's friend or something.
12 Squid was still out there. I ain't never talk with Squid.

13 Q Did you get a chance to talk to Blue when he came to
14 the jail?

15 A I never -- I never ran into Blue over there. Blue
16 was like on the third floor of the jail. I was on the second.
17 Everybody else was on the second floor. Everybody else was on
18 the second floor for like armed robbery, attempted murder,
19 murder. Just -- you know, a lot of -- just a lot of vicious
20 stuff.

21 Blue was just up on the third floor for like coke
22 charges, you know, stuff that is in federal court like
23 sometime they put you in a unit with a lot of people that got
24 federal charges. So, I think he was in that unit.

25 Q But, the bottom line is you never got a chance to

1 talk to Blue?

2 A I never got a chance to talk to him.

3 Q All right. And since you've been out in Ohio or
4 actually since you've been back here in Virginia, have you run
5 into any of those guys at the jail? I'm sorry. In Virginia?

6 A No. I just ran into a couple of dudes from up town,
7 Northeast. A couple of dudes from Southeast, but they're not
8 from around my neighborhood. I ran into one dude from around
9 my neighborhood, but he -- he older than us. And that was it.
10 The only person I ran into was Mark from up Stanton Terrace.

11 Q That was Mark Barnes, the guy who got shot?

12 A Yeah.

13 Q And since you've basically been locked up and plead
14 guilty in relation to this case that you're currently
15 testifying about, the 1-5 mob, you've seen your cousin on two
16 occasions, is that right?

17 A Correct.

18 Q And both of those occasions were controlled or
19 monitored by detectives and agents from the FBI, correct?

20 A Correct.

21 Q And both of those occasions were relatively short;
22 the first occasion was probably, what, five or six minutes
23 long?

24 A Correct.

25 Q And the second occasion was also a relatively short

1 period of time, as well, correct?

2 A Correct.

3 Q All right. And you were not allowed to talk about
4 substantive things in terms of your testimony; is that right?

5 A I can't talk about nothing.

6 MR. PFLEGER: All right. I'll just double check my
7 notes and then I'll be finished.

8 (Pause.)

9 BY MR. PFLEGER:

10 Q There was one other thing I did want to ask you. At
11 one point in time going back in time when you were dealing
12 drugs out there as a young kid, there were some Jamaicans who
13 came into the area and were taking over part of the area;
14 isn't that right?

15 A Correct.

16 Q What happened to those Jamaicans after they came
17 into the area and tried to take over part of it?

18 A They all died.

19 Q They all died?

20 A Mm-hmm.

21 Q Okay. Did any of the guys from the 1-5 mob help
22 that process, kill any of those Jamaicans, as far as you're
23 aware, or from the Young-Young Crew, any of them?

24 A (Nodding.)

25 Q Is that a yes or no?

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1 A Yes. I can't -- I know the dudes with it, a lot of
2 dudes was with it. I can't say who exactly, but it really
3 kicked off as far as one of the Jamaicans was supposed to
4 smack one of the dudes, Roosevelt's mother around the way. He
5 just snapped and started killing all of them.

6 And they had some around Robinson Place. And
7 Squid's brother and Doom, they supposed to went around there
8 or something and got into it with the Jamaicans. So, they was
9 beefing with the Jamaicans, Mush, all them.

10 Then that's when I noticed it died down. There
11 weren't no more Jamaicans around there.

12 Q Did you actually ever witness any of them, when
13 anybody actually shot one of the Jamaicans?

14 A I ain't witness it. It was like it happened and I
15 was right down the street.

16 Q What are you talking about?

17 A Like one happened right there like close to Stanton
18 Road. A dude -- a Jamaican named Stretch got shot, shot up.

19 Q Who shot hi?

20 A They was saying, somebody on Stanton Terrace shot
21 him. But, at the time, Stanton Terrace and 15th Place, you
22 could go up Stanton Terrace and hang up there. You can go
23 -- Stanton Terrace can come down there and hang. It was like
24 together. It was like everybody can go in each other's
25 neighborhood then, you know what I'm saying.

1 Q This was back before the beef.

2 A This was back way before the beef.

3 Q This is even back before Reesie got killed, right?

4 A Yeah. This is way back before that.

5 Q Did Doom kill one of the Jamaicans?

6 A He killed one of the Jamaicans around where I was.

7 Q Were you out there when that happened?

8 A Yeah. I was right across the street.

9 Q What happened in that one, can you tell us? What
10 did you see?

11 A We was coming from the skating ring.

12 Q Who's we?

13 A Me, J.J., my cousin. No, it was just me and J.J.
14 Two other dudes. I just can't remember, it's been so long.
15 But, we was ready to go in the party. I was taking off my
16 skates outside. And Doom was coming out. And he went across
17 the street.

18 I just -- I looked across the street. I seen him
19 talking to somebody, but I didn't know who he was talking to.
20 That's when I know I heard a rack of shots.

21 Doom running. He shooting at the police. The
22 police shooting at him.

23 The dude's dead. They caught Doom. Doom did five
24 years, came home.

25 Q He was a juvenile at the time?

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1 A Yeah.

2 Q And you said, the police were actually involved in a
3 gun battle with Doom?

4 A They were shooting at him. He was shooting at them.

5 Q So, all of those Jamaicans who were selling drugs in
6 your area ended up getting killed basically?

7 A Basically.

8 Q All right.

9 MR. PFLEGER: Does anybody have any other questions
10 that you'd like to ask at this point?

11 A JUROR: I have a question about the gun. You
12 mentioned probably half a dozen or a dozen different kinds of
13 guns that people used at different times. Is there any reason
14 why -- why were so many different kinds used? Is there any
15 -- any preference that people have for a certain kind of gun
16 if they're going to do a certain kind of thing? Or is it just
17 a matter of whatever you happen to have, you just grab what's
18 handy?

19 THE WITNESS: It can go both ways. Say -- say, it's
20 me and you and there's ten of them.

21 A JUROR: We're on the same side, right?

22 THE WITNESS: Yeah. And we need to -- it just me
23 and you, we ain't got no help. So, say we need the AK-47.
24 AK-47 shoot 50 rounds. So, 50 rounds would take -- take ten
25 people. So, you'll try your hand with that one.

1 Then you got some dudes that you'll have a six-
2 shooter, I have a six-shooter. So, that's 12 bullets. Me and
3 you just go and use the 12 bullets on the same ten people. It
4 could work that way, too.

5 But, usually, a lot of dudes will try to get the
6 biggest gun they can to use on a lot of dudes.

7 Like if you do a drive-by or you coming through a
8 cut or something like that, you'll like to have a bigger
9 -- big gun, because you moving fast. You ain't just sitting
10 there aiming. You moving.

11 A JUROR: So, you want to put in as much lead out
12 there as possible.

13 THE WITNESS: Yeah, put all you can all the way out
14 there.

15 A JUROR: Excuse me. I have a question. Did the
16 Jamaicans live in that area or they would just come into the
17 area? Were they close by or what?

18 THE WITNESS: No. The Jamaicans, they was close by.
19 They was -- they'll come around the neighborhood. They might
20 hook up with a couple of dudes that be around there and sell
21 drugs. Start fronting them.

22 Then they might find a couple of pipehead girls
23 smoke cocaine and move into their house, take over their whole
24 house.

25 A JUROR: Within the neighborhood.

1 THE WITNESS: In the neighborhood, pay their phone
2 bill, pay the rent, keep the house up, keep supplying the lady
3 that own the house. Really, it their house once they do that.
4 So, everything going to go by their rules. If nothing go by
5 their rules, then they ain't going to be there.

6 And it got to a point that the Jamaicans -- one
7 time, the Jamaicans started killing each other.

8 But this was the women, because the women were
9 Jamaican. They started killing each other over something, but
10 I forgot what it was. That's how it is.

11 BY MR. PFLEGER:

12 Q So, at one point in time, the Jamaicans were
13 actually running a couple of crack houses where they were
14 selling crack out of?

15 A They was running a lot of them. It wasn't just a
16 couple. It was a lot. It was a lot. I give you ten -- I
17 give you ten houses. It wasn't just ten houses down there on
18 15th. It was probably four or five houses up Stanton Terrace.
19 They just had houses everywhere. And it's just that they just
20 had everything out there.

21 And a lot of dudes liked the Jamaicans because the
22 Jamaicans was supplying them, you know, giving them money, no
23 problem. Like when I was -- when I was younger and the
24 Jamaicans used to ask to use the phone, I let them use my
25 phone. And he'll pay me -- pay me a lot of money just to use

1 the phone, \$25, \$30, just to use the phone for ten minutes.

2 So, it was -- it was like everybody loves the
3 Jamaicans around there at one time.

4 Q What happened?

5 A Guess the guys around the way got tired of them.

6 Q They were taking too much business?

7 A You could say that, yeah.

8 Q Was it -- were they, in fact, getting a lot of
9 business?

10 A It wasn't that they would take too much. They
11 started -- started to think they can do everything to
12 everybody and get away with it and it wouldn't work that way.
13 It wouldn't work that way.

14 They can say -- they can say -- say, I live right
15 here and they be in front of my house. And my mother gots to
16 come through that cut. And they say slick shit -- you know,
17 say slick stuff to my mother. And my mother telling me, she
18 getting tired of them being out there. And one day I might
19 come home and they cussing my mother out. You know, I ain't
20 going to like that. And I go out there and tell him, man, you
21 can't disrespect my mother and they tell me, F me, you know.

22 So, you got issues you got to deal with. You got
23 -- you got to straighten it. Be a man and straighten it. If
24 not, they going to keep on trying to carry it.

25 Q What happens if they -- what happens if they keep on

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1 doing it?

2 A I mean, if you don't be a man and straighten it
3 there, they going to keep on doing it. The next thing --

4 Q What do you mean by --

5 A Next they going to try to come in your house and
6 rule your house.

7 Q What do you mean by, you'd straighten it; what does
8 that mean?

9 A You go to them, talk to them like a man. If he
10 don't -- he don't take it like that, I mean, Jamaicans don't
11 know how to fight, so they don't -- they going -- they going
12 to pull out a gun fast or a knife. They going to pull a knife
13 or a gun out fast, so. They ain't going to fight you, so
14 they'll just pull a gun or knife out. So, you know what you
15 got to do.

16 If you -- if you pull out a gun on a Jamaican and
17 don't kill him, he going to kill you. You can't -- you can't
18 pull a gun out on nobody and don't kill him. That's just like
19 you just shooting at you.

20 Q Did this actually ever happen with you or you just
21 know this from watching this?

22 A No, this never happened to me. I just seen it a
23 couple of times. And I just been around a lot of stuff like
24 that. It's been Jamaicans around that way that got a lot of
25 money and walk around with no shoes all day long. Walk around

1 with no shoes on all day long on the streets, stepping on
2 glass, everything. And just -- they got a pocket full of
3 money. They just thought they was still at home, I guess.

4 MR. PFLEGER: Any other questions?

5 A JUROR: I have one.

6 MR. PFLEGER: Yes, sir.

7 A JUROR: With all the stuff you had with the
8 Jamaicans, when he hit the kid's -- the guy's mother?

9 THE WITNESS: Huh?

10 A JUROR: The final straw you all had with the
11 Jamaicans or that your friend had with the Jamaicans was when
12 he hit the guy's mother?

13 THE WITNESS: Yeah, when he hit the guy's mother,
14 see, she was -- she used to wear a lot of muslim clothes, you
15 know. She was -- she was a nice lady. She was just on drugs,
16 you know. She had two sons. One was older.

17 So, she used to have a house full of Jamaicans. The
18 Jamaicans used to take care -- I think she used to mess with
19 one. And the Jamaican probably used to beat on her all the
20 time, but this particular day he probably -- her son probably
21 just got tired of it and just started -- every time he see a
22 Jamaican somewhere, he just shoot him up, kill him.

23 He killed one by the church. And he used to kill a
24 lot of Jamaicans.

25 He went to jail for like ten years for it. He home

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1 now, as a matter of fact. He went to jail for like --

2 A JUROR: Was he a juvenile when he did it?

3 THE WITNESS: I think he was. I think he was older
4 than 18, but he went to jail and came home. And like now,
5 it's like two Jamaicans around my way now from back then.

6 And when Roosevelt was doing all that, they used
7 -- the police used to tell the one Jamaican, do you know
8 Roosevelt? He going to get you. You better skip town and all
9 this and that.

10 The Jamaican used to talk trash, but he skipped
11 town, though. He used to talk trash and everything, but now
12 he's back now, though. He back around there, back around the
13 neighborhood.

14 MR. PFLEGER: You've seen a lot, huh?

15 THE WITNESS: I been through a lot.

16 MR. PFLEGER: Anybody have a question that they'd
17 like to ask? Mr. Green is available if something else comes
18 up. And there may be some additional things that we'll have
19 to ask him to come back for. But, for right now, I think
20 we're finished.

21 (The witness was excused.)

22 (Whereupon, at 3:08 p.m., the taking of the
23 testimony in the presence of a full quorum of the grand jury
24 was concluded.)

25 * * * * *

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USCA

Exhibit 3

**Documents Related to the Death of Maurice Doleman provided by Tommy Edelin's
Appellate Counsel**

DEATH REPORT

Case 1:05-cr-00100-RWR Document 144-3852 Filed 07/10/2013 Page 2 of 41

USCA Case #11-3081 Document #1443852

Page 352 of 500

NAME OF INVESTIGATOR WEST				DATE 11-21-93	
DECEDENT'S NAME (Last, First, Middle) JOHN DOE - DOLEMAN , MARLE A				H O NO HO #93- 1627	
SEX Male	RACE BLACK	AGE 19 YRS.	DOB [REDACTED]		
HOME ADDRESS [REDACTED]				CCN 699312	
POSSIBLE MANNER OF DEATH HOMICIDE - SHOOTING				I.D. NO.	
EXACT LOCATION BRUCE STREET AND 12th. PLACE SOUTHEAST				253 BY DeFRANCE/2209/7D	
DEATH OCCURRED (TIME) SEE NARRATIVE				IN THE PRESENCE OF (Witness) SEE NARRATIVE	
OR FOUND DEAD (TIME)				BY (Witness)	
ADDRESS				PHONE NO.	
PRONOUNCED BY DR. DR. LAWRENCE				TIME & LOCATION 0515 hours/DCGH	
M.E. NOTIFIED DR.				BODY DISPOSITION Medical Examiner's Office	
NEXT OF KIN [REDACTED]				RELATION TO DECEDENT	
ADDRESS [REDACTED]				PHONE NO. [REDACTED]	
DECEDENT'S OCCUPATION				NOTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
DECEDENT'S CLOTHING Blue jeans, black jacket, green hooded sweat shirt				EMPLOYED <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNKNOWN	
ALCOHOLIC <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNKNOWN				INTOXICATED AT DEATH <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNKNOWN	
DRUG ADDICT <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNKNOWN				INTOXICATED AT DEATH <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNKNOWN	

REPORT
TERMINAL EVENT:

On Sunday, November 21, 1993 at 0328 hours, members of the Seventh (7th) Police District responded to 12th. Place and Bruce Street Southeast in reference to a shooting. The first police unit to arrive on the scene, OFFICER ANTHONY ZOPP and AUGUST DeFRANCE, operating SCOUT 175, found the decedent in sitting in an automobile in an unconscious condition suffering from an apparent gunshot wound to head. DCFD ambulance MEDIC UNIT ONE responded and found no signs of life. The decedent was transported to DCGH by Medical Examiner's Cruiser 707, where he pronounced dead at 0515 hours by staff physician DR. LAWRENCE.

MEDICAL HISTORY/INVESTIGATION:

Medical History unknown. Investigation revealed that the decedent was shot in the back of the head while he sat in the driver's seat of an automobile. The vehicle jumped a curb and stopped after striking a tree. The engine of the vehicle was running and the car was in gear.

SCENE:

The scene of this offense is the corner of 12th. Place and Bruce Street Southeast. The decedent was in the driver's seat of a Chevrolet Impala that jumped the curb and came to rest in the wooded area after striking a tree. The driver's door was open, the rear passenger door on the driver's side and the front passenger door were both ajar. Blood was observed on the front passenger seat of the vehicle. Blood from the front seat traveled to the back of the vehicle and pooled on the floor on the passenger side.

(CONTINUE REPORT ON REVERSE SIDE) (REVERSE CARBON)

000000346

1843

BODY:

The body was observed on the scene. It was clad in the aforementioned attire. It was that of a black male in his late teens to early twenties. The decedent was seated in the operator's seat of the vehicle, his left foot was on the accelerator pedal. The decedent body was slumped slightly to the right. The decedent's right hand was on the seat resting atop a disposable diaper. The left arm was hanging down the left side of the seat near the door jam. The decedent was suffering from a single gunshot wound, apparent entrance in nature, to the back of the head. Blood was observed in the nostrils and on the right side of the face. Blood was observed inside the mouth. The pupils were fixed and dilated. The body was warm to touch and rigor was not present.

000000347

Case 1:05-cr-0010-RV Document #1445852 Filed 07/20/2013 Page 35 of 500

1 TYPE OF REPORT
☐ Offense
☐ Incident

2 DATE AND TIME OF EVENT
Start Date: Month Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec, Day 21, Year 93, Start Time: Hour 03, Minute 15
End Date: Month Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec, Day, Year, End Time: Hour, Minute

3 DATE OF REPORT
Month Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec, Day 7, Year 93, Hour 03, Minute 30

4 TIME OF REPORT
Month Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec, Day, Year, Hour, Minute

5 DISTRICT
6 SECTOR
7 BEAT
8 COMPLAINT NUMBER
181669312

9 EVENT LOCATION ADDRESS
12TH PL and Bruce St SE

10 REPORT RECEIVED BY
☐ TRU ☐ Walk-in ☐ On-scene ☐ Radio run

11 IS RADIO RUN LOCATION AND EVENT LOCATION THE SAME?
☐ Yes ☐ No

12 PROPERTY TYPE
☐ Public ☐ Private

13 EVENT NO. 1
14 EVENT NO. 2
15 EVENT NO. 3

16 FORCED ENTRY
☐ Yes ☐ No

17 POINT OF ENTRY
N/A

18 a. Method Used
Shoot

b. Tools Used
Gun

19 WEATHER CONDITIONS
☐ Clear ☐ Rain ☐ Other ☐ Unknown
☐ Cloudy ☐ Snow ☐ Not applicable

20 SUSPECTED HATE CRIME?
☐ None ☐ Ethnic ☐ Sexual Orientation ☐ Racial ☐ Religious ☐ Other

21 SECURITY SYSTEM (Mark all that apply)
☐ Alarm/Audio ☐ Camera ☐ Dead bolt ☐ Exterior lights ☐ Fence ☐ Alarm/Silent ☐ Dog ☐ Unlocked ☐ Interior lights ☐ Guard ☐ Neighborhood watch ☐ Other ☐ Not applicable ☐ Unknown

22 LOCATION TYPE (Mark only one)
☐ Air/Bus/Train terminal ☐ Doctor's office/Hospital ☐ Public/Private school ☐ Rental storage facility ☐ Alley ☐ Drug store ☐ Residence/Home ☐ Restaurant ☐ Bank/Savings & loan ☐ Federal/Government bldg. ☐ Service station ☐ Sidewalk ☐ Bus stop ☐ Grocery/Supermarket ☐ Hotel/Motel/Etc. ☐ Specialty store ☐ Street/Highway/Road ☐ Church/Synagogue/Temple ☐ Jail/Prison ☐ Lake/Waterway ☐ Tavern/Night club ☐ Other ☐ Not applicable ☐ Unknown ☐ College/University ☐ Commercial office building ☐ Liquor store ☐ Park area ☐ Parking lot/Parking garage ☐ Public housing project ☐ Construction site ☐ Convenience store ☐ Department/Discount store ☐ D.C. government building

23 DESIGNATED AREAS (Mark all that apply)
☐ Victim's vehicle ☐ Apartment/Condo unit ☐ Single family dwelling ☐ Hotel/Motel room ☐ College/University dorm ☐ Classroom ☐ Office room ☐ Vacant building/room ☐ Customer area ☐ Storage area ☐ In public housing ☐ W/in 1 block of public housing ☐ W/in 1,000 ft. of school ☐ Other ☐ Not applicable ☐ Unknown ☐ Suspect's vehicle ☐ Taxi-cab ☐ Bus ☐ Train/Metro/Amtrak/Etc. ☐ Hallway ☐ Elevator ☐ Stairwell ☐ Basement/Laundry room

PART II - VICTIM INFORMATION

24 NAME OF COMPLAINANT/VICTIM/MISSING PERSON NO. 1
[REDACTED]

25 RELATED TO EVENT NO(S)
2, 3, 4, 5, 6, 7, 8, 9, 10

26 VICTIM TYPE
☐ Individual ☐ Business ☐ Financial inst. ☐ Government ☐ Religious org. ☐ Police officer ☐ Society/Public ☐ Other

27 DATE OF BIRTH
Month Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec, Day, Year

28 AGE RANGE
☐ 0-1 yr. ☐ 2-12 yrs. ☐ 13-17 yrs. ☐ 18-65 yrs. ☐ Over 65

29 SEX
☐ Male ☐ Female ☐ Unknown

30 HOME PHONE
()

31 BUSINESS PHONE
()

32 RACE/ETHNICITY (Mark all that apply)
☐ American Indian/Alaskan Native ☐ Japanese ☐ Asian/Pacific Islander ☐ Korean ☐ Black ☐ Vietnamese ☐ Chinese ☐ White ☐ Latino/Hispanic ☐ Other ☐ Unknown/Refused ☐ Jamaican

33 HOME ADDRESS
☐ DC Resident ☐ Non-DC Resident ☐ Unknown

34 BUSINESS ADDRESS/SCHOOL

35 OCCUPATION

36 IS EVENT RELATED TO OCCUPATION?
Yes No Unknown

37 ADDITIONAL MEANS TO CONTACT COMPLAINANT/VICTIM NO. 1

38 NAME OF COMPLAINANT/VICTIM/MISSING PERSON NO. 2
[REDACTED]

39 RELATED TO EVENT NO(S)
1, 2, 3, 4, 5, 6, 7, 8, 9, 10

40 VICTIM TYPE
☐ Individual ☐ Business ☐ Financial inst. ☐ Government ☐ Religious org. ☐ Police officer ☐ Society/Public ☐ Other

41 DATE OF BIRTH
Month Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec, Day, Year

42 AGE RANGE
☐ 0-1 yr. ☐ 2-12 yrs. ☐ 13-17 yrs. ☐ 18-65 yrs. ☐ Over 65

43 SEX
☐ Male ☐ Female ☐ Unknown

44 HOME PHONE
()

45 BUSINESS PHONE
()

46 RACE/ETHNICITY (Mark all that apply)
☐ American Indian/Alaskan Native ☐ Japanese ☐ Asian/Pacific Islander ☐ Korean ☐ Black ☐ Vietnamese ☐ Chinese ☐ White ☐ Latino/Hispanic ☐ Other ☐ Unknown/Refused ☐ Jamaican

47 HOME ADDRESS
☐ DC Resident ☐ Non-DC Resident ☐ Unknown

48 BUSINESS ADDRESS/SCHOOL

49 OCCUPATION
200000348

50 IS EVENT RELATED TO OCCUPATION?
Yes No Unknown

51 ADDITIONAL MEANS TO CONTACT COMPLAINANT/VICTIM NO. 2

52 STATUS (Mark one)
☐ Open ☐ Closed ☐ Closed by arrest, attach PD-252 ☐ Unfounded ☐ Suspended

53 REVIEWER

54 DISTRIBUTION

55 Mark Reflex® by NCS EM-46313:32 A4100 Printed in U.S.A.

1847

<input type="checkbox"/> Classification Change		<input checked="" type="checkbox"/> Additional Information	
1. DATE AND TIME OF EVENT 11-21-93 0315		2. DATE AND TIME OF ORIG. RPT. 11-21-93 0330	
3. RADIO RUN RECEIVED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO 0328		4. DESCRIBE LOCATION Street	
5. COMPLAINT/MISSING PERSON/FIRM A [REDACTED]		6. SEX RACE DATE OF BIRTH M B UNK	
7. SUSPECT/MISSING PERSON <input type="checkbox"/> SUSPECT <input type="checkbox"/> MISSING PERSON		8. WHERE ENTERED N/A	
9. IS THERE A WITNESS? <input type="checkbox"/> YES <input type="checkbox"/> NO		10. TOOLS/WEAPONS gun	
11. IS A SUSPECT NAMED? <input type="checkbox"/> YES <input type="checkbox"/> NO		11. PROPERTY TYPE <input checked="" type="checkbox"/> PUBLIC <input type="checkbox"/> PRIVATE	
12. IS THE STOLEN PROPERTY TRACEABLE? <input type="checkbox"/> YES <input type="checkbox"/> NO		12. METHODS Shout	
13. IS PHYSICAL EVIDENCE PRESENT? <input type="checkbox"/> YES <input type="checkbox"/> NO		13. COMPLEXION SCARS HAT COAT JACKET PANTS SHIRT	
14. IS THE PERPETRATOR KNOWN TO THE VICTIM? <input type="checkbox"/> YES <input type="checkbox"/> NO		14. COMPLEXION SCARS HAT COAT JACKET PANTS SHIRT	
15. WAS A REFERRAL FORM GIVEN TO COMPLAINANT? <input type="checkbox"/> YES <input type="checkbox"/> NO		15. COMPLEXION SCARS HAT COAT JACKET PANTS SHIRT	
16. DURING WHAT HOURS IS COMPLAINANT AVAILABLE FOR INTERVIEW?		16. COMPLEXION SCARS HAT COAT JACKET PANTS SHIRT	
17. IS AN MO OR PATTERN INDICATED? <input type="checkbox"/> YES <input type="checkbox"/> NO		17. COMPLEXION SCARS HAT COAT JACKET PANTS SHIRT	
18. COMPLETE EACH ITEM BELOW. If additional space is needed, use the narrative section. If necessary, use PD Form 251-A. Refer to the specific item numbers when continuing information in the narrative section or on PD Form 251-A. If yes, enter name(s), address(es), phone number(s), hours of availability and brief account.		18. COMPLETE EACH ITEM BELOW. If additional space is needed, use the narrative section. If necessary, use PD Form 251-A. Refer to the specific item numbers when continuing information in the narrative section or on PD Form 251-A. If yes, enter name(s), address(es), phone number(s), hours of availability and brief account.	
19. IS THERE A WITNESS? <input type="checkbox"/> YES <input type="checkbox"/> NO		19. IS THERE A WITNESS? <input type="checkbox"/> YES <input type="checkbox"/> NO	
20. IS A SUSPECT NAMED? <input type="checkbox"/> YES <input type="checkbox"/> NO		20. IS A SUSPECT NAMED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
21. IS THE STOLEN PROPERTY TRACEABLE? <input type="checkbox"/> YES <input type="checkbox"/> NO		21. IS THE STOLEN PROPERTY TRACEABLE? <input type="checkbox"/> YES <input type="checkbox"/> NO	
22. IS PHYSICAL EVIDENCE PRESENT? <input type="checkbox"/> YES <input type="checkbox"/> NO		22. IS PHYSICAL EVIDENCE PRESENT? <input type="checkbox"/> YES <input type="checkbox"/> NO	
23. IS THE PERPETRATOR KNOWN TO THE VICTIM? <input type="checkbox"/> YES <input type="checkbox"/> NO		23. IS THE PERPETRATOR KNOWN TO THE VICTIM? <input type="checkbox"/> YES <input type="checkbox"/> NO	
24. WAS A REFERRAL FORM GIVEN TO COMPLAINANT? <input type="checkbox"/> YES <input type="checkbox"/> NO		24. WAS A REFERRAL FORM GIVEN TO COMPLAINANT? <input type="checkbox"/> YES <input type="checkbox"/> NO	
25. DURING WHAT HOURS IS COMPLAINANT AVAILABLE FOR INTERVIEW?		25. DURING WHAT HOURS IS COMPLAINANT AVAILABLE FOR INTERVIEW?	
26. IS AN MO OR PATTERN INDICATED? <input type="checkbox"/> YES <input type="checkbox"/> NO		26. IS AN MO OR PATTERN INDICATED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
27. DESCRIBE MO OR PATTERN		27. DESCRIBE MO OR PATTERN	
28. ADDITIONAL STOLEN PROPERTY		28. ADDITIONAL STOLEN PROPERTY	
29. NARRATIVE: Record your activity and all developments in the case subsequent to your last report. List the names, addresses, sex, race, age, and arrest numbers of all arrested persons. Explain any change in classification. List the names, addresses, and telephone numbers of all witnesses and suspects.		29. NARRATIVE: Record your activity and all developments in the case subsequent to your last report. List the names, addresses, sex, race, age, and arrest numbers of all arrested persons. Explain any change in classification. List the names, addresses, and telephone numbers of all witnesses and suspects.	
Area canvassed for suspects with negative results at this time. Witnesses transported to Homicide Branch.		Area canvassed for suspects with negative results at this time. Witnesses transported to Homicide Branch.	
30. STATUS <input checked="" type="checkbox"/> OPEN <input type="checkbox"/> PRIOR CLOSED <input type="checkbox"/> CLOSED <input type="checkbox"/> UNFOUNDED (EXPLAIN IN NO. 22) <input type="checkbox"/> SUSPENDED (EXPLAIN IN NO. 22)		30. STATUS <input checked="" type="checkbox"/> OPEN <input type="checkbox"/> PRIOR CLOSED <input type="checkbox"/> CLOSED <input type="checkbox"/> UNFOUNDED (EXPLAIN IN NO. 22) <input type="checkbox"/> SUSPENDED (EXPLAIN IN NO. 22)	
31. INVESTIGATIVE OFFICER'S RECOMMENDATION <input type="checkbox"/> SUSPEND <input type="checkbox"/> INVESTIGATE FURTHER		31. INVESTIGATIVE OFFICER'S RECOMMENDATION <input type="checkbox"/> SUSPEND <input type="checkbox"/> INVESTIGATE FURTHER	
32. REPORTING NUMBER'S SIGNATURE [Signature]		32. REPORTING NUMBER'S SIGNATURE [Signature]	
33. INVESTIGATOR'S SIGNATURE [Signature]		33. INVESTIGATOR'S SIGNATURE [Signature]	
34. SUPERVISOR'S SIGNATURE [Signature]		34. SUPERVISOR'S SIGNATURE [Signature]	
35. INVESTIGATIVE REVIEW OFFICER [Signature]		35. INVESTIGATIVE REVIEW OFFICER [Signature]	
36. SUPERVISOR [Signature]		36. SUPERVISOR [Signature]	
37. REVIEWER [Signature]		37. REVIEWER [Signature]	
38. DISTRIBUTION [Signature]		38. DISTRIBUTION [Signature]	

Value of vehicles will be entered by the Information Processing Section.

Metropolitan Police Department SUPPLEMENT REPORT Washington, D.C. Case 1:05-cr-00100-PWR Document 123-4 Filed 07/10/2013 Page 350 of 500

Classification Change Information 11-23-93 11-21-93 0330 12TH PLCE & BRUE ST SE

13. RADIO RUN RECEIVED YES NO 0328 14. DESCRIBE LOCATION STREET 15. WHERE ENTERED 16. TOOLS/WEAPONS 17. METHODS

18. COMPLAINANT/MISSING PERSON/FIRM A TOLEMAN, MAURICE M B 19. SUSPECT/MISSING PERSON

20. SOLVABILITY FACTORS Complete each item below. If additional space is needed, use the narrative section. If necessary, use the PD 252 Continuation Sheet.

21. ADDITIONAL STOLEN PROPERTY

NARRATIVE: Record your activity and all developments in the case subsequent to your last report. List the names, addresses, sex, race, age, and arrest numbers of all arrested persons. Explain any change in classification. List the names, addresses, and telephone numbers of all witnesses and suspects.

THE DECEDENT WAS IDENTIFIED AS - TOLEMAN, MAURICE, A 31M DOB [REDACTED] ADDRESS [REDACTED] SSN [REDACTED]

THE REMAINS WERE IDENTIFIED AT THE MEDICAL EXAMINER'S OFFICE BY [REDACTED] SAME ADDRESS OF DECEDENT. SHE IDENTIFIED THE REMAINS ON 11-21-93

22. SUPERVISOR'S RECOMMENDATION 23. SUPERVISOR'S SIGNATURE 24. REVIEWER 25. DISTRIBUTION

WORLD RECORD

[illegible]

PART IV - Description of Firearms									
Item No.	Brand Name	Type	Model No.	Serial Number	Culiber	Barrel	No. of Shots	Alteration Indicated?	Firearms Identification Number
								<input type="checkbox"/> Yes <input type="checkbox"/> No	
								<input type="checkbox"/> Yes <input type="checkbox"/> No	
								<input type="checkbox"/> Yes <input type="checkbox"/> No	

PART V - Property Ownership Chain Information									
Use the following codes in Item B (Type of Associate): O-Owner C-Claimant D-Defendant L-Lienholder F-Finder									
A. Item No.	B. Type of Associate	C. Name of Associate	D. Address	E. Social Security No.	F. Telephone	G. Owner Notified	H. Charge	I. Age	J. Arrest No.
						<input type="checkbox"/> Yes <input type="checkbox"/> No			
						<input type="checkbox"/> Yes <input type="checkbox"/> No			
						<input type="checkbox"/> Yes <input type="checkbox"/> No			
						<input type="checkbox"/> Yes <input type="checkbox"/> No			
						<input type="checkbox"/> Yes <input type="checkbox"/> No			
						<input type="checkbox"/> Yes <input type="checkbox"/> No			
						<input type="checkbox"/> Yes <input type="checkbox"/> No			
						<input type="checkbox"/> Yes <input type="checkbox"/> No			

PART VI - Temporary Name Address			
L. Name of Person Making Notification(s)		Date	M. Was NCIC Check Made for Identifiable Property?
			<input type="checkbox"/> Yes (Attach copy of NCIC Inquiry.) <input type="checkbox"/> No

PART VII - Signature of Officer	
Name	Signature

PART VIII - Signature of Officer	
Telephone No.	Foreign Country

The aforementioned evidence was collected in connection to a homicide that occurred on 11/21/93 at Robinson Pl. Bruce Street, 8E. The case and release of property are being handled by Det. West.

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 JSCA Case # 15-00100-RWP Document #1445052 Filed 07/10/2013 Page 362 of 500

PART IV: Description of Firearms

Item No.	Brand Name	Type	Model No.	Serial Number	Caliber	Barrel	No. of Shots	Alteration Indicated?	Firearms Identification Number
1	Wether	pistol	PPZ	2000420	9mm			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

PART V: Property Ownership/Claim Information

Use the following codes in Item B (Type of Associate): O-Owner C-Claimant D-Defendant L-Lienholder F-Finder

A. Item Nos.	B. Type of Associate	C. Name of Associate	D. Address	E. Social Security No.	F. Telephone	G. Owner Notified	H. Charge	I. Age	J. Arrest No.	K. Dis
						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
						<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

PART VI: Statement of Facts

L. Name of Person Making Notification(s)

M. Was NCIC Check Made for Identifiable Property?
☐ Yes ☒ No (Attach copy of NCIC Inquiry.)

Date

Address

PART VII: Temporary Name/Address to Contact Owner/Claimant

Name

Address

PART VIII: Statement of Facts

Telephone No.

Foreign Country

[1-2] [2-3, 4, 20]

680000356

The listed items were recovered in the course of the investigation of the homicide of Maurice Doleman, that occurred November 21, 1993, at Robinson Pl. & Bruce St. S.E.

DET. W. WEST INVESTIGATING

NCLU # 93-15089

1 / 41

Signature of Commanding Officer

Metropolitan Police Department - Property in the Custody of the Property Division - Washington, D.C.

1. Name of Member Reporting Return: **James V. Robinson**
 2. Recvng Elms: **449-312**
 3. Property Book & Page No.: **407**
 4. CCN: **134**
 5. No. of Items: **2**
 6. No. of Associates: **0**
 7. DEA Lab Number: **N/A**
 8. Name of Member Recovering Property: **James V. Robinson**
 9. Name of Member Reporting Return: **James V. Robinson**
 10. Name of Member Reporting Return: **James V. Robinson**
 11. Date Recovered: **11/21/93**
 12. Where was property found?
 13. Name of Member Reporting Return: **James V. Robinson**
 14. Name of Member Reporting Return: **James V. Robinson**
 15. Name of Member Reporting Return: **James V. Robinson**
 16. Name of Member Reporting Return: **James V. Robinson**
 17. Name of Member Reporting Return: **James V. Robinson**
 18. Name of Member Reporting Return: **James V. Robinson**
 19. Name of Member Reporting Return: **James V. Robinson**
 20. Name of Member Reporting Return: **James V. Robinson**
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 93. Name of Member Reporting Return: **James V. Robinson**
 94. Name of Member Reporting Return: **James V. Robinson**
 95. Name of Member Reporting Return: **James V. Robinson**
 96. Name of Member Reporting Return: **James V. Robinson**
 97. Name of Member Reporting Return: **James V. Robinson**
 98. Name of Member Reporting Return: **James V. Robinson**
 99. Name of Member Reporting Return: **James V. Robinson**
 100. Name of Member Reporting Return: **James V. Robinson**

PART I - Description of Property									
Use the following codes to classify property in Item E below.									
A - Abandoned B - Turned Over to Police for Destruction C - Suspected Proceeds of Crime D - Estate of Deceased E - Evidence F - Found G - Safekeeping - Recovered Stolen Auto H - Held for Civil Forfeiture I - Impounded J - Removed from Impounded Vehicle K - Set Out for Eviction L - Prisoner's Property M - Alleged Mentally Ill									
A. Item No.	B. Description of Item	C. Color	D. Serial No.	E. Classification	F. Quantity	G. Storage Size	H. Storage Facility	I. Storage Location	J. Where was property found?
1	Assorted people items	unit.	N/A	I	1	TD	PCB	12/14/93	ROBINSON P. & BEUCE ST. S.E.
2	One 85.00 bill	green	N/A	I	1	TD	PCB	12/14/93	

Tag Number: _____
 Registration State / Year: _____
 Body Style: _____
 No. of Tires: _____
 Make: _____
 Year of Manufacture: _____
 Vehicle Identification Number: _____
 Auto Theft Notified (name, date & time): _____
 Teletype Notified (name, date & time): _____

PART III. PROPERTY RELEASED							
Released to (Signature)	Address	Returned By (Initials)	Date of Release	Method of Disposition	Sale Price	Fees to D.C. Treasurer	

Item No.	Brand Name	Type
----------	------------	------

Model No.	Serial Number	Caliber	Barrel	No. of Shots	Alteration Indicated?	Firearms Identification Number
					<input type="checkbox"/> Yes <input type="checkbox"/> No	
					<input type="checkbox"/> Yes <input type="checkbox"/> No	

Use the following codes in Item B (Type of Associate): O-Own

[illegible][illegible]

1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

PART VI. Temporary Name / Address to Contact Owner / Claimant		Identifiable Property? <input type="checkbox"/> Yes (Attach copy of NCIC inquiry.) <input type="checkbox"/> No	
Name		Address	
Telephone No.		Foreign Country	

OF THE

[501]

68051-56 / DTIC

FY98-94-11

METROPOLITAN POLICE DEPARTMENT
CRIME SCENE EXAMINATION SECTION
EVIDENCE REPORT

CSES NO. 93-15089 CCN 669-312 TECHNICIAN James W. Robinson UNIT M.C.L.U.
DATE 11/21/93 TIME 4:10 A.M. OFFENSE HOMICIDE (SHOOTING)
B/M 20's
COMPLAINT OR DECEDENT John DOE LOCATION Robinson Pl. & Bruce St. S.E.
TO: COMMANDING OFFICER
HOMICIDE BRANCH ATTENTION: Det. W. West
FROM: COMMANDING OFFICER
MOBILE CRIME LAB UNIT

The below Evidence was recovered on the above case, and is presently being held in the Crime Scene Examination Section for processing and examination.

ITEMS

EXACT LOCATION OF RECOVERY

On Sunday, November 21, 1993, at approximately 3:45 a.m., the undersigned received a telephone request from the Communication's Division, to respond to the scene of a Homicide at 15th Pl. & Robinson Pl. S.E. Upon arrival at approximately 4:10 a.m. with Technician C. Lancaster, the scene was located at Robinson Pl. & Bruce St. S.E. After speaking with Det. West, the following service was provided.

One roll of color photographs taken of the scene.

Sketch and measurements made of the scene.

The Decedent was seated in the drivers seat of a 1979 Chevrolet, Impala, 4dr., green in color, VIN [REDACTED], bearing DC temp. registration [REDACTED]. The vehicle was being operated in a Southernly direction on Robinson Pl. and had run off the roadway and 10' into brush at the intersection at Bruce St. The motor was running and the vehicle was in gear.

The following item was recovered.

Item # 1. One \$5.00 bill; in street at South curb of Bruce St. at Robinson Pl.

NOTES: Item 1 listed on property book 407 page 334.

The vehicle was towed to the Mobile Crime Lab Unit garage for processing.

Sgt. [Signature]
(Reviewing Official)

000000361

James W. Robinson
James W. Robinson
(Reporting Officer)

FOR ID USE ONLY

Latents are of no value

Per _____
Date _____

Following Latent Prints are of value:

☐ FINGERS ☐ PALMS ☐ TIPS

Per _____
Date _____

Forwarded _____ By _____

Entered _____ By _____

Property Book No. _____ Page No. _____

P.D. 698 Rev. 10/75

METROPOLITAN POLICE DEPARTMENT,
WASHINGTON, D.C.

SUPPLEMENTARY EVIDENCE REPORT

TO: Commanding Officer : Homicide Branch (Det. West)		CASE NUMBER	
COMPLAINANT		93-15089	
John Doe	OFFENSE	OFFENSE DATE	LOCATION OF OFFENSE
	HOMICIDE	11-21-93	Robinson Pl. & Bruce St. S.E.
DATE OF REPORT	LOCATION OF REPORT	COMPLAINT NO.	TECHNICIAN
11-22-93	MCL Garage	669 - 312	Charles E. Hale

On Monday, 11-22-93, about 0930 hours, the undersigned Technician responded to the Mobile Crime Lab vehicle processing garage to assist with the investigation of the above captioned offense. Upon arrival a 1979 Chevrolet, Impala, four door, Green in color, bearing D.C. Temporary tags [REDACTED], Vin# [REDACTED] was examined for evidence, with the below listed results.

Color photographs taken of vehicle (1 roll C.A. 120).

Item # 2. Walther PPK Semi Auto, Cal.9mm Kurz/380 ACP, Serial# K008620, Interarms Alexandria, Va. (black in color) with grey metal magazine.
Recovered from right front passenger side floorboard.

Item # 3. Live round 380 Auto WIN - recovered from chamber of item # 2.

Item # 4. Six (6) live rounds of 380 Auto Win - recovered from item # 2. magazine.

Item # 5. Assorted papers - recovered from glove box.

Item # 6. Baseball style cap (Blue & Grey in color) - recovered from left rear deck of rear window area.

Item # 7. Latent lift - recovered from outside driver's door window glass.

8. Latent lift - recovered from outside driver's door window glass.

9. Latent lift - recovered from roof area, over left rear passenger side.

10. Latent lift - recovered from outside rear door vent window.

11. Latent lift - recovered from roof top, center right side.

12. Latent lift - recovered from outside right rear door vent window.

13. Latent lift - recovered from outside right rear door glass.

14. Latent lift - recovered from outside right rear door glass.

15. Latent lift - recovered from outside right rear door glass.

16. Latent lift - recovered from outside right rear door glass.

17. Latent lift - recovered from outside right rear door glass.

18. Latent lift - recovered from inside right rear door vent window glass.

Item # 19. Latent lift - recovered from inside right rear door glass.

Tech notes:

Items #2. thru 6 entered on MCL Property Book# 407 Page # 334 and placed in Technician Robinson's evidence bin. A copy of this report was placed on Technician Robinson's desk.

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Sgt. J. Morales
Signature of Reviewing Official

Charles E. Hale
Signature of Technician Assigned 1024

P.D. 698 Rev. 10/75

METROPOLITAN POLICE DEPARTMENT
 WASHINGTON, D.C.

SUPPLEMENTARY EVIDENCE REPORT

TO: Commanding Officer-Homicide Branch (Det. West)		CASE NUMBER	
COMPLAINANT: Maurice Doleman		93-15089	
OFFENSE: Homicide		LOCATION OF OFFENSE	
DATE OF REPORT: 11-22-93		Robinson Pl & Bruce St, S.E.	
LOCATION OF REPORT: DC Medical Examiners Office		TECHNICIAN	
COMPLAINT NO.: 669-312		Maureen L. Walsh	

On Monday, November 22, 1993, at approximately 1325 hours, the below Evidence Technician responded to the D.C. Medical Examiner's Office with Technician II C.E. Hale to assist with the investigation of the above captioned case. Upon arrival, the following services were performed:

Color polaroid taken of the Decedent to aid in identification.

Major case prints taken of the Decedent for the purpose of identification and elimination.

The below items were recovered from the Decedent as Evidence:

Item #20 Metal fragments and pellets- from Decedent's head- by Dr. L. Sanchez.

Item #21 Whole blood sample (patch made).

Technician Notes:

Evidence entered on MCL Property Book #407 page #334.

ME# 93-11-1646 S# 93-506 Dr. Sanchez.

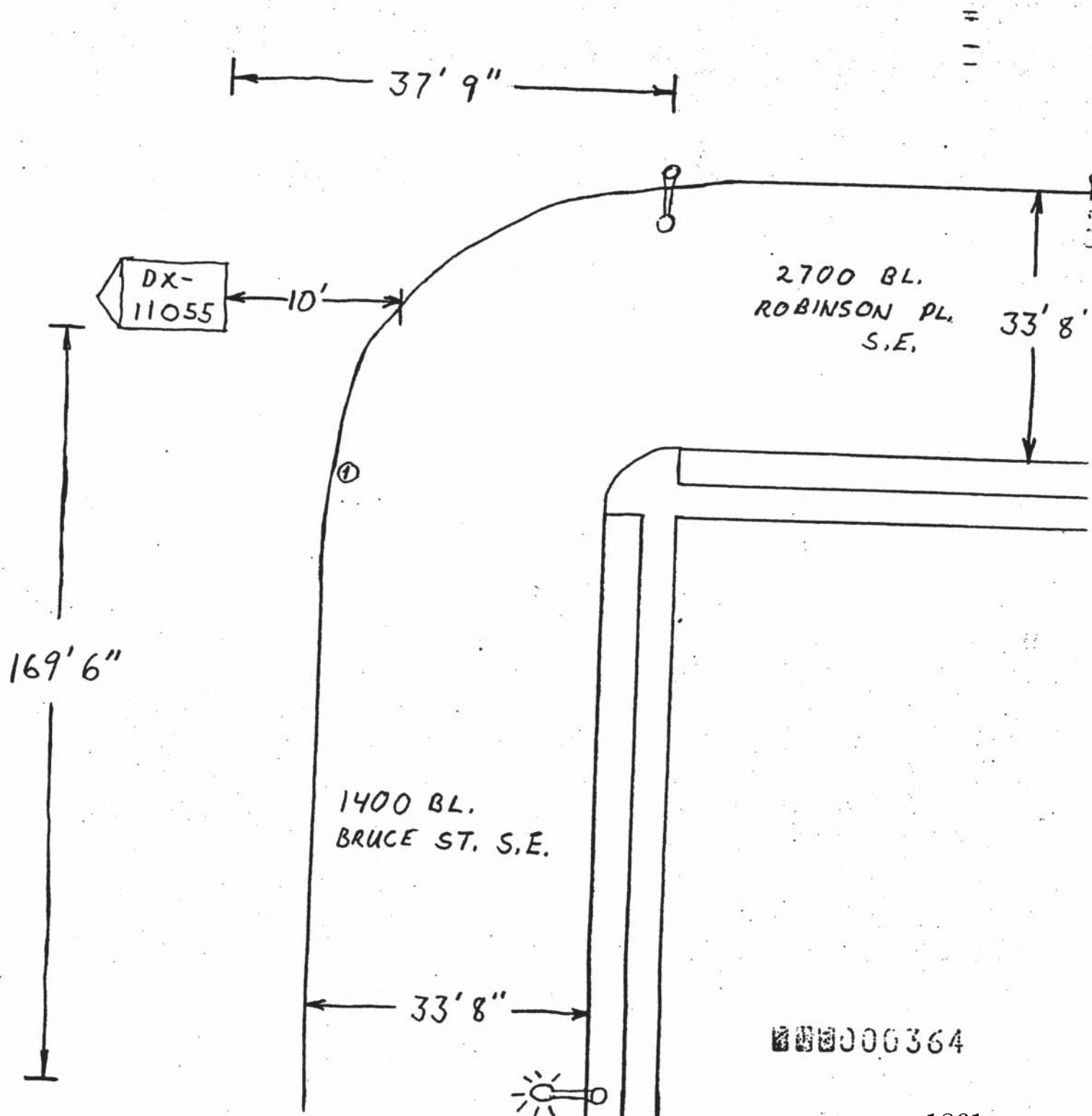
Technician II J. Robinson notified.

00000363

Sgt. J. Robinson
 Signature of Reviewing Official

Maureen L. Walsh
 Signature of Technician Assigned

HOMICIDE - SHOOTING
11-21-93
M.C.L.H. # 93-15089
TECH. II C. E. LANCASTER



P.D. 698 Rev. 10/75

METROPOLITAN POLICE DEPARTMENT
 WASHINGTON, D.C.

SUPPLEMENTARY EVIDENCE REPORT

TO: COMMANDING OFFICER HOMICIDE BRANCH / Det. West		CSES NUMBER
COMPLAINANT	OFFENSE	93-15089
Maurice DOLEMAN	HOMICIDE (SHOOTING)	LOCATION OF OFFENSE
DATE OF REPORT	OFFENSE DATE	Robinson Pl. & Bruce St. SE
12/03/93	11/21/93	TECHNICIAN
LOCATION OF REPORT	COMPLAINT NO.	James W. Robinson
M.C.L.U. Office	669-312	

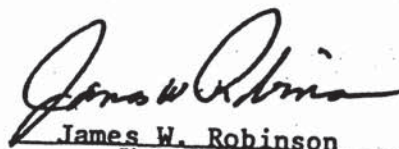
On Friday, December 3, 1993, at approximately 4:00 p.m., I processed the listed item for latent prints using the CYVAC Super Glue Fuming Chamber.
 Negative results.

Processed item # 2. WALTHER PPK 9mm/380 pistol, serial K 008620, with clip.

000000365



Signature of Reviewing Officer



James W. Robinson
 Signature of Technician Assigned

IDENTIFICATION BRANCH

REQUEST FOR LABORATORY EXAMINATION

669-312

FES Laboratory Number

93-15089

Date

12/03/93

Element Requesting Examination

HOM. / M.C.L.U.

Officer Handling Case

Det. W. West / Tech. J.W. Robinson

Crime Scene Search Officer Delivering Article(s) to Laboratory

Dinkelbaum

Type of Examination Requested

FIREARMS

Name of Complainant

Maurice Doleman

Location of Offense

Robinson Pl. & Bruce St. S.E.

Case Number

Hour and Date of Offense

4:10 A.M. 11/21/93

Article(s) to be Examined: (Use Reverse Side if Necessary)

✓ 2. WALTHER PPK 9mm/380 pistol, Serial # K008620, with clip.

✓ 20. Copper jacket fragments, lead pellets, blue pellet.

ALSO SUBMITTED: # 3. One (1) live round WIN 380 auto ammunition.

4. Six (6) live rounds of assorted live rounds 380 auto ammunition. [1 R-P & 5 WIN]

Brief Statement of Facts: (Use Reverse Side if Necessary)

Maurice Doleman was shot and killed while in a vehicle at Robinson Pl. & Bruce St. S.E.

Time and Date Delivered to Laboratory

Received By

-15 9.3 11/05

Signature of Examiner

Name of Assisting Examiner

Examination Complete

☐ Yes☐ No

PD 698 Forwarded

☐ Yes☐ No

Property Book No. 415 Page No. 131

0000366



METROPOLITAN POLICE DEPARTMENT
IDENTIFICATION BRANCH
FINGERPRINT EXAMINATION SECTION

PD 860-A
9/70

LABORATORY ANALYSIS REPORT

DATE: December 7, 1993

TO: Commanding Officer
Homicide Branch

Attention: Detective W. West

FROM: Identification Branch
Fingerprint Examination Section

C.S.E.S. File No. 93-15089

Examination No. Evidence Processed

On 12-6-93 (2) items of evidence were submitted to the under-
signed to be chemically processed for latent prints. This evidence
was recovered by Officer Charles A. Hale of the M.C.L.U.
from the scene of a Homicide at Robinson Pl. & Bruce St., S.E.
on 11-21-93.

The evidence consists of:

Item# 1- One five dollar bill

Item# 5- Assorted papers

Item#

Item#

☐ The above listed evidence was processed with negative results.
No latent prints were developed.

☒ The above listed evidence was processed with positive results.
However the developed latents lack clear and sufficient ridge
characteristics for identification purposes.

Officer Charles E. Hale of the M.C.L.U. may pick up this
property and sign the Fingerprint Examination Section Property
Book# 71, page# 59.

000000367

Mary A. Crenshaw
Mary A. Crenshaw
Fingerprint Analyst

* Additional items may be listed on back of form.



**METROPOLITAN POLICE DEPARTMENT
IDENTIFICATION BRANCH
FINGERPRINT EXAMINATION SECTION**

LABORATORY ANALYSIS REPORT

DATE: December 7, 1993

TO: Commanding Officer
Homicide Branch

ATTN: Det. West

FROM: Identification Branch
Fingerprint Examination Section

SUBJECT: C.S.E.S. File No. 93-15089
Examination No. 2674 Deceased S# 93-506

The fingerprints of a deceased black male, tentatively identified
as Doleman, Maurice and printed at the D.C. Medical Examiner's
Office on 11-22-93, by Officer Maureen L. Walsh
of the Crime Scene Examination Section, have been positively identified against
the known prints of Doleman, Maurice A., black male
ID# 422107.

The photographs, fingerprints, etc., have been secured from the various files
and placed in a folder located in the Crime Scene Examination Section.

Mary A. Crenshaw
Mary A. Crenshaw
Fingerprint Specialist



GOVERNMENT OF THE DISTRICT OF COLUMBIA
METROPOLITAN POLICE DEPARTMENT
WASHINGTON, D. C. 20001-2188

TO: COMMANDING OFFICER
Special Investigations Branch, CID

DATE: March 7, 1995

ATTENTION: Technician James W. Robinson
Mobile Crime Unit

FIUQ #93-4236/PVG
MCU #93-15089

RE: Maurice Doleman
Decedent

TYPE OF EXAMINATION: Firearms

The following items of evidence were submitted on December 15, 1993 by Steve E. Dekelbaum.

Item #2 Pistol, Walther model PPK, caliber .380, serial number K008620.

Items #3 and #4 Seven (7) cartridges, .380 Auto.

Item #20 Fired bullet fragments.


RESULTS OF EXAMINATIONS:

Item #2 is a double-action semi-automatic pistol, caliber .380 Auto (9x17mm), Walther brand, model PPK, serial number K008620, with a magazine having a capacity of six (6) cartridges. This pistol was examined, found to function, and test fired.

Items #3 and #4 are proper cartridges for use in the item #2 pistol.

Item #20 is a fragmented caliber 9mm (Luger or .380), "Glaser Safety Slug", bullet fired from a firearm/barrel with eight (8) grooves, right twist. The following firearms which may produce similar rifling impressions include, but not limited to, firearms marketed under the brand names of AMT, Bryco, Jennings, Hi-Point, Stallard and Sterling.

Please arrange to have a member of your unit pick up the evidence which is being held in the Firearms Identification Unit.


Patrick V. Garland
Firearms Examiner

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P.D. 81-C
Rev. 11/82

Metropolitan Police Department
Washington, D. C.

PROPERTY RELEASE

1. Property release initiated by (Check one):		2. Date initiated
<input checked="" type="checkbox"/> United States Attorney for the District of Columbia	<input type="checkbox"/> Corporation Counsel for the District of Columbia	06-06-94

Property Clerk
Metropolitan Police Department
2235 Shannon Place, S. E.
Washington, D. C. 20020

This is to advise you that the property described below will not be needed as evidence in the case designated nor in any other case the Police Department has brought to our attention. Therefore, (Prosecutor must initial one or more boxes.):

☒ There is no objection on the part of this Office to disposition of the property by the Property Clerk in accordance with the District of Columbia Code.

☐ The property may be released only after it is photographed with the claimant.

☐ Other special conditions of release of property:

4. DESCRIPTION OF PROPERTY		5. EVIDENCE	
1979 Chevrolet Impala, Four (4) door,		a. Criminal Docket Number Assigned By (Court):	
Green in color. DC temporary		b. Central Complaint Number	
registration [REDACTED]. Vehicle		c. Case Name	
Identification Number [REDACTED]		d. Charge	
Register Number		e. Disposition	
6. Date Prop. Acquired		f. Is Case on Appeal?	
11-21-93	7. Officer's Full Name	<input type="checkbox"/> Yes <input type="checkbox"/> No <small>NOTE: Prosecutor - Property may not be released until case is on appeal unless prosecutor is authorized above.</small>	
Wendell T. West		g. Release Authorized by: (Signature of US Attorney or Asst. Corp. Counsel)	
8. Badge Number		9. Organizational Element	
3395		CID-Homicide	

Distribution: Original copy to the prosecuting attorney at the time the case is papered.

NOTE: NOT TO BE ACCEPTED WITHOUT CRIMINAL DOCKET NUMBER

00000370

1867

VEHICLE PROCESSING WORKSHEET

MCL: 93-15089 CCN: 669-312

DATE: 11/21/93 TIME: _____

OFFENSE: Homicide (Shooting)

COMPLAINANT: [REDACTED]

LOCATION: Robinson Pl. & Bruce St. SE

OFFICERS HANDLING CASE:

DETECTIVE: W. WEST TECHNICIAN: ROBINSON

WARRANT STATUS: _____

VEHICLE DESCRIPTION:

YEAR: 1979 MAKE: CHEV. MODEL: Impala

COLOR: Green TAG: DC [REDACTED]

VIN NO: [REDACTED]

DAMAGES NOTED: _____

Keys in
Ignition

SERVICES REQUESTED:

- ☒ PHOTOGRAPHS
- ☒ LATENT PRINTS
- ☒ FIREARMS EVIDENCE
- ☐ TRACE EVIDENCE
- ☐ BLOOD AND/OR SEMEN
- ☐ HAIR/FIBER ☐ VACUUM
- ☐ GLASS SAMPLES

Deceased driving veh... shot one
time in back of neck apparently
by other occupant(s) of veh.

OTHER SERVICES REQUIRED:

anything with name on same
papers - permit etc

RELEASE STATUS: _____
TECHNICIAN: _____

000000371

DISTRICT RELEASED TO:

7-D

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HUMAN SERVICES
OFFICE OF THE CHIEF MEDICAL EXAMINER
1910 Massachusetts Avenue, S.E. Building #27
Washington, D.C. 20003

AUTOPSY REPORT Case NO. 93-11-1646

Name: DOLEMAN, MAURICE Age: 19 Race: Black Sex: Male

Address: Unknown

Date and Time of Death: November 21, 1993 at 5:15 AM (Pronounced)

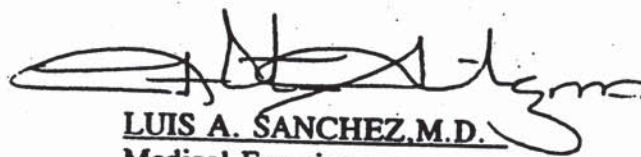
Date and Time of Autopsy: November 22, 1993 at 10:30 AM

CAUSE OF DEATH: GUNSHOT WOUND TO HEAD

MANNER OF DEATH:

Natural Causes ☐
Accident ☐
Suicide ☐
Homicide ☒
Undetermined ☐
Unclassified ☐

Date December 7, 1993


LUIS A. SANCHEZ, M.D.
Medical Examiner

EXTERNAL EXAMINATION

The body is that of a 5'8", 132 lb., well developed, well nourished black male appearing the stated age of 19 years. The scalp is covered by short, kinky black hair. The brown eyes have equal pupils and the conjunctivae are clear. The nasal septum is intact. The mouth has natural dentition. The buccal mucosa is free of lacerations or contusions. The neck is straight and free of scars. The upper extremities are free of tattoos or open injuries. The skin over the knuckles contains small, dry abrasions. The chest is symmetric and is free of tattoos. The abdomen is unremarkable. The penis is circumcised and the external genitalia are unremarkable. The lower extremities are free of injuries. The back is unremarkable except for two 1.5 cm. hypertrophic scars on the left upper back and a single one on the right upper back. In addition, dot-like, hyperpigmented macules are on the back.

EVIDENCE OF INJURY - PENETRATING GUNSHOT WOUND (GSW) TO HEAD

The wound of an entrance type is on the right posterior occipital region, 6 1/2 ins. below the top of the head and 1/2 ins. to the right of the posterior midline. The wound itself is a 0.7 cm. circular defect with a rim marginal abrasion. No soot or muzzle imprint is present. However, fine stippling is present, covering a 6 in. horizontal area involving the posterior aspect of the right ear in a 3 in. horizontal plane. The wound pathway continues toward the left with a circumscribed circular defect in the right posterior fossa of the occipital bone with partial beveling on the endocranial surface. The wound extends into the left hypoglossal canal after traversing the foramen magnum and medulla oblongata. The pathway continues into the sphenoid sinus. A small, round, blue plug is found at the base of the brain. However, multiple lead pellets are found in the sphenoid sinus, primarily behind the clivus portion of the occipital bone. In addition, multiple pellets are seen behind the mucosa of the oral pharynx and nasal pharynx. Two fragments of copper jacket are retrieved from the sphenoid sinus. The projectile pathway is associated with multiple fractures of the occipital bone extending from the foramen magnum and into the clivus. In addition, multiple contusion foci of the mucosa of the oro- and nasopharynx are evident. Subarachnoid hemorrhage at the base of the brain and over the right occipital lobe is evident. Multiple hemorrhagic contusion foci are evident at the base of the brain involving the red nucleus, thalami, anterior commissure, and cerebral peduncles. The overall pathway is back to front and right to left.

INTERNAL EXAMINATION

The anterior chest and abdominal wall do not have extravasated blood. The ribs, sternum, and clavicle are unremarkable. The pleural cavity, peritoneal cavity, and abdominal cavity are free of excessive fluid.

The 300 gm. heart has a smooth, intact epicardial surface and a normal amount of subepicardial fat. The right predominant coronary arterial system is patent. The myocardium of both ventricles is soft, red-brown, and homogenous. The endocardium is smooth and free of mural thrombi. The valve cusps and leaflets are thin, pliable, and free of vegetations. The chordae tendineae are thin and delicate. The papillary muscles are soft and red-brown. The thoracic and

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abdominal aorta is intact and free of atherosclerosis.

The right and left lungs are 500 gms. and 380 gms., respectively. Both have smooth pleural surfaces with focally congested parenchyma. Minimal anthracotic stippling is present. The bronchi are unremarkable. No induration is palpable nor suppuration visible. The pulmonary arteries have a smooth intima. Pulmonary hilar lymph nodes are inconspicuous.

The 1260 gm. liver has a smooth intact capsule. The hepatic parenchyma is soft, brown, and homogenous. The gallbladder contains green, viscous bile and no calculi. The bile passages are unremarkable. The hepatoduodenal ligament is free of lymphadenopathy.

The 70 gm. spleen is intact and has a smooth, grey capsule. The splenic pulp has inconspicuous lymphoid follicles. The gastrosplenic ligament is free of lymphadenopathy.

The right and left kidneys are 110 gms. and 150 gms., respectively. They have a smooth cortical surface. The corticomedullary junctions are sharp. The cortical width is within normal limits. The ureters are normal in course and caliber. The urinary bladder is intact and contains 95 ml. of clear yellow urine. The bladder mucosa is unremarkable. The urethra is also unremarkable.

The prostate and seminal vesicles are unremarkable. The testis are free of contusion foci.

The thyroid gland, adrenal glands, and pancreas are unremarkable.

The esophagus is intact. The stomach has a smooth serosal surface and a flat, tan mucosa. The stomach contains 8 ozs. of partially digested food with portions of potato easily identified. The small and large bowel are unremarkable. The appendix is in the right lower quadrant. The anus is free of trauma.

The thyroid cartilage and hyoid bone are free of fractures. The nasopharynx is free of foreign bodies. The larynx and trachea contain smooth, tan mucosa.

The 1500 gm. brain is well formed and symmetric. Coronal sections fail to disclose any intrinsic abnormalities.

AUTOPSY FINDINGS

I. Penetrating GSW to head associated with:

A. Severance of medulla oblongata.

CAUSE OF DEATH: GSW to head.

MANNER OF DEATH: Homicide.

0000000374

OFFICE OF THE CHIEF MEDICAL EXAMINER

AUTOPSY WORK SHEET

Date NOVEMBER, 1993

Deceased Name DOLEMAN, MAURICE Case NO 93-11-1646 Box NO #49

Race BLACK Sex MALE Age 19 Weight 132 LBS. Height 5' 8"

TO BE COMPLETED BY PROSECTOR ONLY

PATHOLOGY REQUIREMENTS:

SECTIONS

Heart <u>300</u>	Adrenal Glands <u> </u>	Bullet Entrance <u> </u>
<u>RL 500</u>	<u>RL 110</u>	
Lungs <u>LL 340</u>	Kidney <u>LL 150</u>	Soft Tissue <u> </u>
Liver <u>1,260 fatty</u>	Genital Organs <u> </u>	Other (See Remarks) <u> </u>
Pancreas <u> </u>	Stomach/Intestine <u> </u>	Smears: <u> </u>
Spleen <u>70</u>	Bone <u> </u>	Vagina <u> </u>
	Brain <u>1100</u>	Mouth <u> </u>
		Anus <u> </u>

95cc clear yellow urine
Appx - Stomach & 20 potato
NOTE: INDICATE CASES FOR CONSULTATION (X): HEART () BRAIN ()

TOXICOLOGY REQUIREMENTS:

SPECIMENS

Blood <u>2T</u>	Liver <u> </u>
Urine <u>1T</u>	Kidney <u> </u>
Bile <u> </u>	Brain <u> </u>
Gastric Contents <u> </u>	Lung <u> </u>
Vitreous Humour <u> </u>	Other (See Remarks) <u> </u>

REMARKS:

000000377

MEDICAL EXAMINER



METROPOLITAN POLICE DEPARTMENT
CRIMINAL INVESTIGATIONS DIVISION
HOMICIDE BRANCH

COMPLAINANT/WITNESS STATEMENT

November 22, 1993

CCN: 669-312 =

FILE NO: HO-93-

DOB: Adult SEX: M

PH: N/A

PH: 767-8020

INVESTIGATION: Homicide (Shooting)

STATEMENT OF: [REDACTED]

HOME ADD.: N/A

EMPLOYMENT: 2455 Alabama Ave., SE (7th District)

LOCATION STATEMENT TAKEN: 300 Indiana Avenue, NW (Homicide Branch)

STATEMENT TAKEN BY: Det. Phineas A. Young #D-328 START: 0535 hrs.

STATEMENT:

Officer Zopp, this office is investigating the Homicide shooting which occurred this morning in the 1400 block of Bruce Street, Southeast. Please tell me in your own words what you know about this incident.

I was working the 2200 to 0630 hour tour of duty assigned to scout 175 along with Officer August DeFrance. We heard a call for a shooting go out over the radio and we proceeded to respond to the location of 15th and Robinson Street, Southeast. We went down the 1500 block of Bruce Street towards the 2800 block of Robinson Place, Southeast. We located a green chevy Impala with D.C. Temporary tags [REDACTED] at 12th and Bruce Street, Southeast in the woods with it's engine running. Inside of the vehicle we located one black male suffering from an apparent gunshot wound to the head. He was seated in the driver's seat. At that time we notified the dispatcher of our findings and secured the crime scene and began to make the proper notifications. D.C. Fire Department Medic # 1 responded to the scene but did not transport the victim. We canvassed the area for witnesses but found nothing, a five dollar bill was located on the scene by Officer Sean O'Conner. At that we maintained the scene until the arrival of Homicide.

DATE/TIME ENDED:

PAGE 1 OF 1 PAGES

"I UNDERSTAND THAT MAKING OF A FALSE STATEMENT IS PUNISHABLE BY CRIMINAL PENALTIES (D.C. CODE SECTION 22-2514)".

SIGNATURE

Arthur W. Zopp

WITNESS

Phineas A. Young

0000378

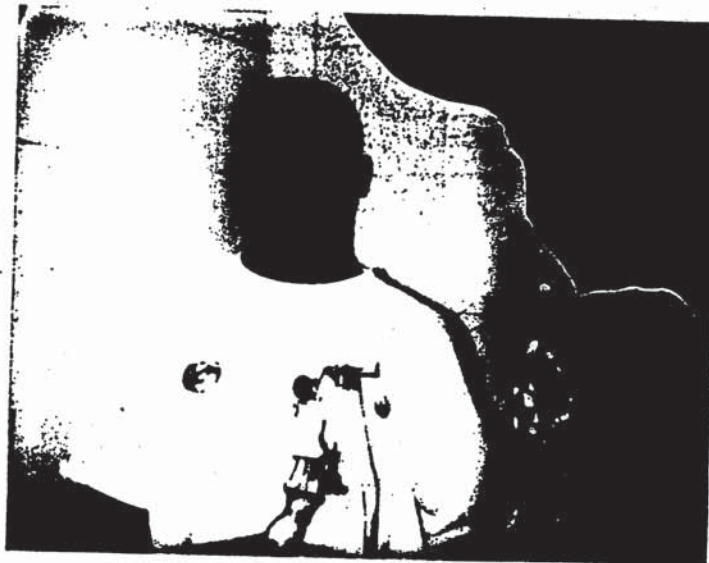
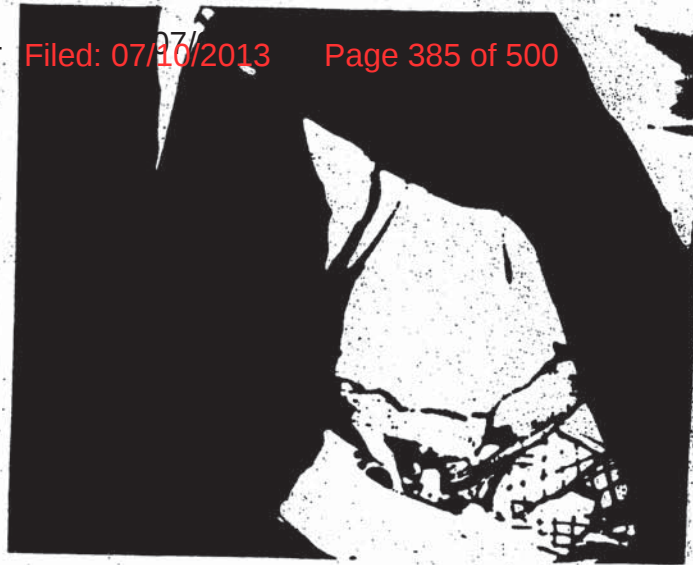


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It's Squid.
Is he the same
guy that told
you he killed "Reeg"?
Yes it is.
[REDACTED]
11:35 AM
6-26-96

Shanker D 134
[REDACTED] D-380

000000320



000000381

ME. LITAN POLICE DEPARTMEN
 WASHINGTON, D.C.
 INVESTIGATIVE SERVICES BUREAU
 VIOLENT CRIME AND GANG TASK FORCE
 VIOLENT RESPONSE TEAM

P.D. 123 REV. 01/74 REPORT OF INVESTIGATION

COMPLAINANT/VICTIM Willis, Maurice B/M 1-16-76		DATE OF OCCURRENCE Sun. 2-20-94 2245 hrs	
TYPE OF CASE A.V.I.K. WHILE ARMED (SHOOTING)		CCN 089-291	FILE NO. 94-36/37/38
NARRATIVE:		SYNOPSIS OF CASE INVESTIGATION	

RUNNING RESUME
 SUN.2-27-94
 0700 TO 1500

On today's date, at approximately 0900 hours, the undersigned investigator responded, to Greater Southeast Community Hospital to interview the complainant in reference to his assault.

The complainant was asked, how long has he known the suspects, he identified as "ANTOINE" and "K-BAY/Kari" who are brothers, the complainant stated since he was ten (10) years old and that they, used to go to Junior High school and hang-out together. The undersigned then showed the complainant a single photograph, the complainant stated, Yeah That's Him, the photograph the complainant identified was that of, Antwaun Dejon Hall PDID 436-141 aka Antwaun Dejon Ball.

The complainant was then asked why "Antwuan" would want to shoot him, the complainant stated that his friend, Alfred Holmes Jr. aka "Man", grandfather was robbed approximately one (1) year ago for about \$2,400.00, possibly by Antwuan's friend, Maurice LNU aka Reese (Reese and complainant Willis were locked-up together from 1991 to 1993).

The complainant further stated that, Maurice aka Reese was killed, and that Antwuan may think that him and Alfred Holmes Jr aka Man, were involved in Maurice's death. The undersigned then asked the complainant, who killed Maurice, the complainant stated that the word on the street is that ASAY killed Maurice, because Maurice had owed money to ASAY.

002928

CASE STATUS:	OPEN	CLOSED	OTHER(Explain)	PAGE 1 OF 1 PAGES
INVESTIGATOR'S SIGNATURE	<i>Edwin J. Garney</i>			DATE 2/27/94
SUPERVISOR'S SIGNATURE				DATE

WASHINGTON, D.C.
 CRIMINAL INVESTIGATIONS DIVISION
 HOMICIDE BRANCH

P.D. 123 REV. 01/74

REPORT OF INVESTIGATION

COMPLAINANT/VICTIM		DATE OF OCCURRENCE	
DOLEMAN, Maurice		Nov. 12, 1993	
TYPE OF CASE		CCN	FILE NO.
Homicide Shooting		699-312	HO-94-1627
NARRATIVE:		SYNOPSIS OF CASE INVESTIGATION	

RUNNING RESUME

Tuesday, November 8, 1994
 Tour of Duty: 1200-1800

[REDACTED]

MR. KOREY DONELL WATKINS BM DOB 3-26-71 of 2709 Robinson Place #404 no telephone was interviewed he is the boyfriend of the decedent's sister. He states that he was in jail (june 1994) and he asked SQUID over the telephone did he shoot Ricey he stated no COOLER DID. MR. WATKINS states he has been knowing SQUID all his life, when shown a photo for ID purposes he states yea that's him that's the person known to him as SQUID. The photo is a Color MPDC Photo bearing 391-552 dated 3-13-89.

002929

CASE STATUS: ☒ OPEN ☐ CLOSED ☐ OTHER(Explain)

INVESTIGATOR'S SIGNATURE	DATE
SUPERVISOR'S SIGNATURE	DATE

**METROPOLITAN POLICE DEPARTMENT
 WASHINGTON, D.C.
 CRIMINAL INVESTIGATIONS DIVISION
 HOMICIDE BRANCH**

P.D. 123 REV. 01/74

REPORT OF INVESTIGATION

COMPLAINANT/VICTIM		DATE OF OCCURRENCE	
DOLEMAN, MAURICE A.		11-21-93	
TYPE OF CASE		CCN	FILE NO.
HOMICIDE SHOOTING		699-312	H0-93-1627
NARRATIVE:		SYNOPSIS OF CASE INVESTIGATION	

RUNNING RESUME

Wednesday, November 9, 1994
 TOUR OF DUTY: 1200-2000
 ARCHER/GAINEY

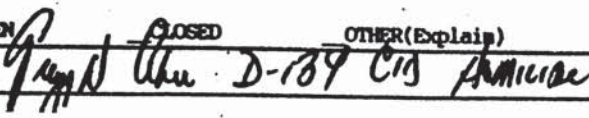
002930

1300 hours: MR. ANTWANNE NORWOOD JOHNSON aka Cooler, was interviewed at the Homicide Office relative to the above captioned shooting. He states that he and Squid were on the front in Congress Park, when Squid asked Ricey for a ride home. He states that they got into the car, Ricey was driving, Rome was sitting in the front passenger seat, Squid was behind Ricey and he Cooler was sitting behind front passenger. They took Rome home up on Bellevue Street S.E. After they dropped Rome off He Cooler got in the front seat and Squid remained in the back seat. They then went to Tricey's house on Congress Place. While at that location someone suggested that they go pick up Shawn at Congress Park. They picked up SHAWN, SHAWN and Ricey began to argue about some money and then the started laughing. He states that they stopped the car on the corner of 15th Place and Bruce where he got out of the car, as he was getting out of the car and Squid was getting out of the car he saw Shawn shoot Ricey. He states that he was standing approximately 15-20 feet away when he heard the shots. He states that Shawn was still in the car and Squid was attempting to exit the auto when the shots were fired. Cooler states that he looked back a saw Shawn shoot Ricey. The next day Shawn approached Cooler and stated don't put his name in it, (cooler states that Shawn has killed more than one person). Shawn told Cooler that if he talked he would kill him and kill his son.

Cooler also states that he saw Squid with a .380 handgun prior to Ricey being shot. He states that he saw the gun in Squid's waist, and it was a black automatic handgun. He describes Shawn as a black male 5-9-5-10 dark complexion, with a mole on the right side of his cheek and he hangs in the area of Stanton Terrace.

During the course of the interview Mr. Johnson gave several stories relative this investigation but he states that the reason he refused to provide us with information was because of the death threat and he knows that SHAWN will kill him and his son.

Mr. Johnson also states that he has known SHAWN for approximately one year and that he has known SQUID for approximately two years. Mr. Johnson was

CASE STATUS:	<input checked="" type="checkbox"/> OPEN	<input type="checkbox"/> CLOSED	<input type="checkbox"/> OTHER (Explain)	PAGE 1 OF 2 PAGES
INVESTIGATOR'S SIGNATURE				DATE 11/10/94
DATE				

ME' POLITAN POLICE DEPARTMENT
 WASHINGTON, D.C.
 CRIMINAL INVESTIGATIONS DIVISION
 HOMICIDE BRANCH

P.D. 123 REV. 01/74

REPORT OF INVESTIGATION

COMPLAINANT/VICTIM		DATE OF OCCURRENCE	
DOLEMAN, MAURICE A.		11-21-93	
TYPE OF CASE		CCN	FILE NO.
HOMICIDE SHOOTING		699-312	H0-93-1627

NARRATIVE:

SYNOPSIS OF CASE INVESTIGATION

shown one MPDC Color photo bearing 391-552 for identification purposes and asked if he knew this person, Mr. Johnson stated that's SQUID.

This interview was concluded with Mr. Johnson being sent home at 2000 hours. During the course of the interview Mr. Johnson was afforded the opportunity to use the bathroom, given something to drink and he was asked if there was anything he wished to eat, he declined to eat. He was given several moments to collect his thoughts and to think. He understood the reason for the interview and that he was free to leave. After the interview Mr. Johnson was transported to his residence by Det Gainey of this command. Before he left he re-stated that SHAWN was crazy and that if SHAWN knew he was talking he would kill him.

002931

CASE STATUS:	<input checked="" type="checkbox"/> OPEN	<input type="checkbox"/> CLOSED	<input type="checkbox"/> OTHER(Explain)	PAGE 2 OF 2 PAGES
INVESTIGATOR'S SIGNATURE	<i>Det. Allen 2-134 CID Homicide</i>			DATE
SUPERVISOR'S SIGNATURE				DATE

WASHINGTON, D.C.
 CRIMINAL INVESTIGATIONS DIVISION
 HOMICIDE BRANCH

P.D. 123 REV. 01/74

REPORT OF INVESTIGATION

COMPLAINANT/VICTIM DOLEMAN, MAURICE A.		DATE OF OCCURRENCE 11-21-93	
TYPE OF CASE HOMICIDE SHOOTING		CCN 699-312	FILE NO. 93-1627
NARRATIVE:		SYNOPSIS OF CASE INVESTIGATION	

RUNNING RESUME
 WED. 6-26-96
 TOD: 1500-2300
 ARCHER

An interview was conduct with a witness in reference to the above captioned case. This witsness relates that IT was told by a subject known to IT as SQUID that SQUID killed REECEY. SQUID said that he killed REECEY because REECEY robbed ALFRED of a large sum of money. SQUID was told to kill REECEY by EIRK who is ALFRED'S cousin. ERIK said that if SQUID killed REECEY he would straighten SQUID out, meaning he would pay him. This witness states to IT that SQUID was sitting in the back seat of REECEY's car when he shot REECEY in the head. IT states that prior to the murder SQUID knew REECEY smoked weed and they went smoking weed together.

002932

CASE STATUS:	OPEN	CLOSED	OTHER (BASEAINOF ?	PAGES
INVESTIGATOR'S SIGNATURE			DATE	
SUPERVISOR'S SIGNATURE			DATE	

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA :

v. : Criminal No. 05-100-02 (RWR)

DAVID WILSON, :
also known as Cool Wop :
also known as Cootie :

Defendant. :

**GOVERNMENT'S OPPOSITION TO DEFENDANT DAVID WILSON'S
MOTION FOR CONSIDERATION OF STILL PENDING MOTIONS,
FOR A NEW TRIAL AND FOR JUDGMENT OF ACQUITTAL**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, herewith files this opposition to defendant Wilson's motion for consideration of still pending motions, for a new trial and for judgment of acquittal (**Document #1233**). In support of its opposition, the government files this motion and offers further arguments and authorities at a hearing on this matter.

Factual and Procedural Background

After a lengthy trial in this case, defendant Wilson was convicted by a jury of the following charges: Distribution of Cocaine Base, in violation of 21 U.S.C. §841(a)(1) (counts 4, 6, 11, 18, 20, and 21); Distribution of 5 Grams or More of Cocaine Base, in violation of 21 U.S.C. §841(a)(1) and §841(b)(1)(B)(iii) (counts 16 and 19); Unlawful Use of a Communications Facility, in violation of 21 U.S.C. §843(b) (count 55); and First Degree Murder while Armed, in violation of 22 D.C. Code §§2101, 4502 (counts 31 and 33).

During the trial in this case, Wilson filed several motions, including the following motions for a mistrial:

- **Docket #947 and #957** – Which related to the government’s disclosure of an FBI 302 which indicated that Bradley Carter purportedly had a conversation with Michael Smith, aka Teeny Man, during which time Smith purportedly told Carter that Aman Ball and Joseph Jones had shot Ronnie Middleton, aka Squid and Sabrina Bradley.
- **Docket #986 and #1003** – Which related to the fact that counsel for Wilson was not allowed to re-cross government witness Damion Green, aka O-Face, regarding the details of a shooting involving Wilson to which Green testified, and which Wilson contended was in conflict with a portion of testimony he provided in the trial of *United States v. Tommy Edelin*.

The government filed detailed opposition memorandum with respect to each of these motions: Government **Docket #955**, which addressed the issue relating to the FBI 302 of Bradley Carter; and Government **Docket #1025**, which addressed the testimony of Damion Green.

Argument

As defendant Wilson himself recognizes, much of basis for his instant motion for a new trial and for a judgment of acquittal are the arguments he already advanced in the above-referenced and previously-filed motions. *See* Wilson Mem. at Paragraphs 3-4. Accordingly, the government incorporates by reference the arguments and authority already contained in its opposition memorandum (**Docket #955** and **#1025**).¹ That said, the government would like to briefly add the following additional points with respect to these previously-filed motions:

¹ The government also incorporates by reference the arguments and authority contained in its previously-filed Supplemental Opposition to Defendant Joseph Jones’s Motion for Judgment the of Acquittal, New Trial, and Arrest of Judgment (**Docket #1225**), relating to the issue of whether the cocaine at issue in this case was cocaine base, also known as crack. Wilson joined the arguments previously made by other counsel in this case regarding this issue without citing any additional arguments or authority. *See* Wilson Mem. at p. 4.

- When the parties briefed the issue relating to the information contained in the Bradley Carter FBI 302, the government argued that Wilson had sufficient time to conduct whatever investigation that he might wish with respect to the information contained in the FBI 302 at issue (**Docket #955** at pp. 8-9). This was in May of 2007, when all parties reasonably believed that the trial was going to conclude in June or July. At the time, no one realized that this trial would continue into November, including a six-week break in order to allow defense counsel additional time to prepare their defense. In short, Wilson had closer to 5 months, rather than 2 months, to investigate any additional leads that he might have wished with respect to the information contained in the FBI 302.
- Indeed, Wilson and his counsel used this additional time to not only investigate his case, but also to call witnesses in his defense with respect to the Middleton/Bradley double-homicide. One of those witnesses was Melvin Givens, who testified, among other things, that he witnessed the murder, and saw Antonio Roberson, aka LT and Antoine Draine, aka Draino commit the murder alone – *i.e.* without Wilson, or any other third person. Thus, Wilson flatly rejected the information contained in the FBI 302 (*i.e.* that Aman Ball and Joseph Jones, rather than Roberson and Draine, committed the murder). Thus, Wilson should no longer be allowed to argue that he was prejudiced by information that he has since clearly rejected.
- At the time he filed his motion back in May of 2007, Wilson argued that “[t]he principal witnesses in relation to [the Middleton/Bradley homicide] have already testified at trial in this matter. They were Bobby Capies and Kairi Kelliebrew.” **Docket #947**, at 1. As the Court is aware, this is no longer a true statement. The evidence of Wilson’s guilt with respect to this double-homicide was very strong. In addition to Capies and Kelliebrew, the following additional witnesses also implicated Wilson in this murder: Torran Scott (regarding two admissions Wilson made to him); Renee Cottingham (regarding an admission Wilson made to him); Patrice Johnson (providing an excited utterance from Michael Smith, aka Teeny Man, which contained details of the murder that corroborated Cottingham’s, Capies’s, and Scott’s accounts); FBI Firearms Examiner Steve Casper (who testified that the ballistics recovered from the Middleton/Bradley double-homicide were an exact match with ballistics recovered from the Linwood Carpenter shooting that occurred five months earlier).²
- The government stands by its assertion that the Court was correct in precluding counsel for Wilson to re-cross Damion Green regarding the details of one of several shootings that he witnessed during the 1990s as part of the “beef” between

² In addition, and as previously argued, there were even more witnesses who could have implicated Wilson, Roberson and Draine in this double-homicide. *See* **Docket #955** at 6-7.

the 1-5 Mob and the Congress Park Crew. *See generally* **Docket #1025**. It is worth additionally noting that Green was extensively cross-examined by six able defense attorneys during two days, and Green was one of over 140 witnesses that the government called in this case, and his testimony was only one of several that addressed the beef between Congress Park and the 1-5 Mob. In addition, Green did not testify regarding any of the counts which Wilson was convicted of, including the Middleton/Bradley double-homicide.

Wilson advances one new argument in his instant motion: that after reviewing some of the discovery provided to the defense by the government many years ago, in connection with the case of *United States v. Tommy Edelin, et al*, he has recently learned that there were “alternative theories” regarding the 1993 murder of Maurice Doleman, aka Reecey. Wilson Mem. at 2. Otherwise put, many years ago, there were purportedly different theories (not facts, not evidence, but theories) regarding who might have committed a murder that was never charged in the instant case, and which Wilson was never convicted of, but rather which contributed to the motive for Wilson’s commission of the Middleton/Bradley double-homicide five years later. As a matter of both fact and law, these “alternative theories” even if credited, do not constitute *Brady*, and do not in any way suggest that the outcome of this trial would have in any way been different.

As an initial matter, the three alternative theories listed in Wilson’s motion (Wilson Mem. at 2-3) are all second and third-hand hearsay statements, which constitute nothing more than street rumor. It is well established that such rumors are not *Brady*. *See Gibson v. United States*, 566 A.2d 473, 480 (D.C. 1989) (“to require disclosure information, must be more than ‘street rumor’; it must reach the ‘level of evidence’”) (citation omitted); *see also United States v. Sedgwick*, 584 F.2d 1044, 1046 (D.C. Cir. 1978).

Secondly, two of these three alternative theories are completely consistent with the government’s theory at trial, namely that the 1-5 Mob was responsible for the death of Maurice

Doleman, aka Reecey (the “Shawn” and “Cooler” listed on page 2 of Wilson’s Motion were members of the 1-5 Mob). Indeed, the government made this very point during its opening statement. After stating its belief that Squid killed Reecey, the government went on to state:

[A]ll of the members of the Congress Park Crew took this seriously. They were all upset when Reecey was murdered. . . . Probably at the top of this list, the person who took it most personally and was most upset about it was David Wilson. Why? Well, David Wilson was actually extremely close to Reecey. . . . He was very, very close to Reecey, and when ***Reecey is murdered by Edelin’s group***, David Wilson takes it very personally. You’re going to hear, ladies and gentlemen, from 1995 through 1996, through a good two-year period, of several instances where David Wilson drove into the 1500 block of Congress Place, Southeast, which was Edelin’s neighborhood, and shot at people. ***Didn’t even matter if Squid was one of the people being shot at.*** Some times it wasn’t. A lot of the times it wasn’t. It doesn’t matter. David Wilson was angry, he was hurt. ***A member of his group, a man that he considered a brother was killed by Edelin. It didn’t matter, as long as somebody associated with Edelin, somebody associated with Squid, somebody associated with that group was there, could be hit, could be shot at, could be killed. That’s all that mattered.***

2/21/07 Tr. at 72-73 (emphasis added). In other words, the government’s theory has always been that Congress Park members, including Wilson, had a motive to harm members of the Edelin/1-5 Mob because of the belief that the Edelin/1-5 Mob was responsible for the death of a member of Congress Park. Wilson’s emphasis on who the actual trigger-man is therefore misplaced, and contradictory to the theory articulated by the government on the very first day of trial.

Thirdly, to the extent the identity of the person who killed Reecey is relevant at all, it is only relevant as to who Wilson and his fellow co-conspirators *thought* had killed Reecey, not who *actually* killed Reecey. Different witnesses – such as Bobby Capies and Torran Scott, for example – testified at trial that members of Congress Park blamed the 1-5 Mob generally, and Squid specifically, for Reecey’s murder. That is all that matters. Whether “Squid,” or “Shawn,” or “Cooler,” or “Asay” or anyone else for that matter, actually killed Reecey is beside the point. The only thing that matters for purposes of establishing Wilson’s motive for wanting to kill

Squid was Wilson's belief that that is what he thought. To this end, the government presented different witnesses who talked about the ongoing beef between the 1-5 Mob and the Congress Park Crew which was sparked over the death of Reecey.

Fourth, it is important to emphasize that this purportedly newly-discovered information is not probative at all with respect to who actually committed the August 17, 1998 double-homicide of Squid and Sabrina Bradley. Indeed, if this information is probative of anything, it is regarding who else might have committed a wholly-separate murder, five years earlier. If it is *Brady* at all, it is arguably *Brady* for another case, with other defendants, and other decedents.³

Finally, Wilson fails to convincingly demonstrate how these additional rumors as to who else might have killed Reecey (five years before the double-homicide) would have in any way affected the jury's guilty verdict with respect to this double-homicide. *Strickler v. Greene*, 527 U.S. 263, 281 (1999) ("strictly speaking, there is never a real '*Brady* violation' unless the nondisclosure was so serious that there is a reasonable probability that the suppressed evidence would have produced a different verdict."); *Kyles v. Whitley*, 514 U.S. 419, 433-434 (1995) ("[F]avorable evidence is material only. . . 'if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.'") (quoting *United States v. Bagley*, 473 U.S. 667, 678 (1985)). Indeed, no less than six separate witnesses testified at trial implicating Wilson in this double-homicide: Bobby Capies, Kairi Kelliebrew, Torran Scott, Renee Cottingham, Patrice Johnson, and Steve Casper. *See also*

³ A related point is what, if any, evidentiary basis there would have been for allowing in this purportedly newly-discovered evidence during the trial in this case. This information seems collateral to any of the material issues in this case.

Document #955 at 6-7.⁴

CONCLUSION

For the reasons set forth above and for other such reasons that may be made at a hearing on this motion, the government respectfully requests that the Court deny defendant Wilson's motion for consideration of still pending motions, for a new trial and for judgment of acquittal.

Respectfully submitted,

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United States Attorney
D.C. Bar No. 498-610

GLENN S. LEON
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New York Bar
555 4th Street, N.W., Room 4112
Washington, DC 20530
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⁴ In addition, and as set forth in **Document #955**, had he been allowed to testify regarding this double-homicide at trial, Robert Pough would have also testified that Antonio Roberson, aka LT admitted to him that he (Roberson), Wilson and Antoine Draine, aka Draino committed the murder. In addition, the government also has an additional sworn grand jury account of yet another witness who also implicates Wilson in this murder. This additional witness was not called at trial for reasons having nothing to do with credibility.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE UNITED STATES OF AMERICA :

v. : Cr. No. 05-100-16 (RWR)

**JOSEPH JONES, :
also known as Jo-Jo, :
Defendant. :**

**GOVERNMENT’S MEMORANDUM IN AID
OF SENTENCING FOR JOSEPH JONES**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, herewith files this memorandum in aid of sentencing for defendant Joseph Jones. In support of this memorandum, the government relies on the following points and authorities and any other points and authorities that may be cited at the sentencing hearing.

Procedural and Factual Background

Since March of 2005, a total of eighteen individuals have been indicted in connection with the instant case. Fifteen of these defendants were indicted on March 22, 2005, and charged with, among other things, participation in a narcotics conspiracy, as well as individual acts of drug-dealing and weapons possession, in violation of 21 U.S.C. §§ 841, 846, and 18 U.S.C. §§ 922(g)(1), 924(c)(1), and other statutes. Subsequently, on November 29, 2005, the grand jury returned a superseding indictment against fifteen defendants – twelve who remained from the initial March 2005 group, plus an additional three defendants. This superseding indictment charged these fifteen defendants with the same counts contained in the March 2005 indictment as well as participation in a RICO conspiracy, as well as individual acts of violence, including four murders, in violation of, among other things, 18

U.S.C. §§ 1962, 1963 and 1959.

Prior to the instant trial in this case, twelve of the eighteen defendants either pled guilty or were found guilty after trial. Notably, the following seven defendants each pled guilty to RICO Conspiracy (count two of the superseding indictment), admitted participation in the charged narcotics conspiracy (count one as well as racketeering act one), and further represented to this Court that after reviewing the superseding indictment in this case, the allegations set forth in that document were either true or they had no information to dispute or disprove the allegations: Raymond Bell, aka Santuce; Marcus Smith, aka Mick; Gerald Bailey, aka Chow-Wow; Luscious Fowler; Phillip Wallace; Jasmine Bell, aka Jazz; Daniel Collins, aka DC. In addition, each of these defendants admitted that he was accountable for distributing or possessing with intent to distribute more than 1.5 kilograms of crack.

In addition, co-defendant Newett Ford went to trial before this Court in June of 2006. After a four-day trial, Mr. Ford was convicted (after just 3 hours of jury deliberation), of the narcotics conspiracy which was charged in count one of the superseding indictment.¹ Mr. Ford was subsequently sentenced by this Court to 262 months of incarceration.

As the Court is aware, Mr. Jones, along with five other defendants, went to trial in this case.² The jury acquitted the six defendants of counts one and two, and returned guilty verdicts on a number of other charges, including a guilty verdict for the first-degree double-homicide of Ronnie Middleton

¹ Prior to Mr. Ford's trial, the government had dismissed the RICO Conspiracy (count two) charge against him.

² The six defendants who went to trial before this Court from February through November of 2007 – Antwuan Ball, aka Twuan, Big Ant; David Wilson, aka Cool Wop; Desmond Thurston, aka Dazz; Joseph Jones, aka JoJo; Gregory Bell, aka Boy-Boy; and Dominic Samuels, aka Don, Dom – represent the final six of the total of eighteen defendants indicted in this case.

and Sabrina Bradley. There was evidence presented at trial that this double-homicide was committed as part of an ongoing turf war between the Congress Park Crew charged in the superseding indictment and its rival, the 1-5 Mob. The jury deadlocked on only two counts – each relating to co-defendant Dominic Samuels’s August 27, 2002 murder of Jamel Sills, aka Black (counts 37 and 50). On January 24, 2008, Mr. Samuels pled guilty in front of this Court to manslaughter while armed, admitting that he had, in fact, shot and killed Jamel Sills in Congress Park, on August 27, 2002, just as was alleged in the indictment in this case, and just as several trial witnesses had attested.

Defendant Jones was convicted by the jury of tow counts of Distribution of Cocaine Base, in violation of 21 U.S.C. § 841(a)(1) (Counts 10 and 14). Accordingly, Mr. Jones faces a sentence of up to 30 years incarceration with respect to each of these offenses. *See* 21 U.S.C. § 841(b)(1)(C).³

The United States Probation Office prepared a Pre-Sentence Investigation Report (“PSI”) for Mr. Jones and computed that pursuant to the United States Sentencing Guidelines (“U.S.S.G.” or the “Guidelines”), Mr. Jones has a total offense level of 38, a criminal history category of VI, and a recommended Guidelines range for imprisonment of 365 months to life.

Legal Standards

The Supreme Court opinion in *United States v. Booker*, 543 U.S. 220 (2005) held, *inter alia*, that the Guidelines are no longer mandatory and therefore “effectively advisory.” *Id.* at 245, 259. *See also Gall v. United States*, No. 06-7949, 552 U.S. at ----, 128 S. Ct. 586, 594-596 (2007); *Kimbrough v. United States*, No. 06-6330, 552 U.S. at ----, 128 S.Ct. 558, 570-571 (2007). Accordingly, the Sixth Amendment’s bar against judicial fact-finding does not apply to Guidelines sentencing. Although judges are still required “to take account of the Guidelines together with other sentencing goals,”

³ Prior to trial, the government had filed a notice with the Court, pursuant to 21 U.S.C. § 851 and 18 U.S.C. § 924(e)(1), that Jones, having been convicted previously of certain felony crimes of violence and violent felonies, was subject to enhanced penalties.

without the provision that makes “the relevant sentencing rules . . . mandatory . . .,” the statute falls outside [the constitutional] requirement.” *Booker*, at 259; *id.* at 252. (citations omitted).

In *United States v. Dorcely*, 454 F.3d 366 (D.C. Cir.), *cert. denied*, 127 S. Ct.691 (2006), the District of Columbia Court of Appeals, interpreting *Booker*, held that a sentencing court may base a sentence on unconvicted conduct without offending a defendant's Sixth Amendment right to trial by jury. *Id.* at 371. Indeed, as the Court of Appeals pointed out, every circuit that has reviewed the issue, post-*Booker*, has held that a district court may still consider acquitted conduct while applying the guidelines in an advisory manner. *Id.* (citing cases). The Court of Appeals found two aspects of the *Booker* holding to be instructive. First, the Court in *Dorcely* pointed out that the Supreme Court noted in *Booker* that “when a trial judge exercises his discretion to select a specific sentence within a defined range, the defendant has no right to a jury determination of the facts that the judge deems relevant,” and that a sentencing court has “broad discretion in imposing a sentence within a statutory range.” *Id.* at 372 (citing *Booker*, 543 U.S. at 233). Second, the Court noted that the *Booker* remedial opinion concluded that 18 U.S.C. § 3661, which provides that no limitation shall be placed on the information concerning the background, character, and conduct of the convicted person that a sentencing court may receive and consider, posed no Sixth Amendment problem and permits a sentencing court to consider acquitted conduct. *Id.* (citing *Booker*, 543 U.S. at 251); *see also United States v. Watts*, 519 U.S. 148, 151 (1997).

Thus, the *Dorcely* court concluded, “[u]nder *Booker*, consideration of acquitted conduct violates the Sixth Amendment only if the judge imposes a sentence that exceeds what the jury verdict authorizes.” *Id.* at 371. Here, defendant Jones’s conviction on the two counts of distribution of crack (coupled with the applicable statutory enhancement) authorizes a sentence of not more than 30 years with respect to each count. Hence, any sentence which is 30 years or less for each count “plainly falls

within the authorized sentence.” *Dorcely*, 454 F.3d at 372; *see also Booker*, 543 U.S. at 244 (“Any fact (other than a prior conviction) which is necessary to support a sentence exceeding the maximum authorized by the facts established by a plea of guilty or a jury verdict must be admitted by the defendant or proved to a jury beyond a reasonable doubt.”); *see also* U.S.S.G. Section 5G1.2.

In *Dorcely*, the Court of Appeals also held that a sentencing court may base a sentence on acquitted conduct without offending a defendant's due process rights under the Fifth Amendment. 454 F.3d at 372. The Court noted that the Supreme Court has ruled that “possession of the fullest information possible concerning the defendant's life and characteristics” is “[h]ighly relevant - if not essential - to [the judge's] selection of an appropriate sentence.” *Id.* (quoting *Williams v. New York*, 337 U.S. 241, 247 (1949)). Thus, the Supreme Court has ruled that a sentencing judge may consider past criminal behavior of a defendant that did not result in a conviction without violating due process. *Dorcely*, 454 F.3d at 372 (citing cases). In this regard, in making its sentencing determination, a court may consider acquitted and untried conduct, as well as conduct for which a jury deadlocked. *See United States v. Lawson*, 494 F.3d 1046, 1056-58 (D.C. Cir. 2007); *United States v. Bras*, 483 F.3d 103, 107-108 (D.C. Cir. 2007).

When determining relevant conduct, the sentencing court is to make its findings by a preponderance of the evidence. *See United States v. Dorcely*, 454 F.3d 366, 372-373 (D.C. Cir. 2006) (“[W]e reject *Dorcely*’s claim that a sentencing court’s use of acquitted conduct must be based not on a preponderance of the evidence but instead beyond a reasonable doubt.”); *see also Watts*, 519 U.S. at 157; *Bras*, 483 F.3d at 107; *see generally* U.S.S.G. Section 6A1.3.⁴

The District of Columbia Court of Appeals has held that “a sentence within a properly

⁴ The sentencing judge need not consider only evidence which has been subject to cross-examination. In addition, the rules of hearsay as well as other provisions of the Federal Rules of Evidence are not applicable. *Bras*, 483 F.3d at 108 (citing cases).

calculated Guidelines range is entitled to a rebuttable presumption of reasonableness.” *Dorcely*, 454 F.3d at 376 (citations omitted); *see also Gall*, 128 S. Ct. at 597 (“If the sentence is within the Guidelines range, the appellate court may, but is not required to, apply a presumption of reasonableness.”).⁵ As the Supreme Court recently clarified in *Gall*, “the Guidelines should be the starting point and the initial benchmark” in determining a sentence. *Gall*, 128 S.Ct. at 596 (“a district court should begin all sentencing proceedings by correctly calculating the applicable Guidelines range”). District courts must therefore “give respectful consideration to the Guidelines,” but are permitted ““to tailor the sentence in light of other statutory concerns as well.”” *Kimbrough*, 128 S.Ct. at 570 (quoting *Booker*, 543 U.S. at 245-246).

Indeed, sentencing does not end with consideration of the Guidelines. A sentencing court must also consider the non-guideline sentencing factors enumerated under 18 U.S.C. Section 3553(a), *Lawson*, 494 F.3d 1057-1058; *see also United States v. Price*, 409 F.3d 436, 442 (D.C.Cir. 2005); *Booker* 543 U.S. at 261, 125 S.Ct. 738 (“Section 3553(a) remains in effect, and sets forth numerous factors that guide sentencing. Those factors in turn will guide appellate courts, as they have in the past, in determining whether a sentence is unreasonable.”).⁶

⁵ This principle was just recently re-articulated by the District of Columbia Court of Appeals in *United States v. Melvin B. Brown*, --- F.3d. ---, slip op. at 4 (No. 03-3102, Feb. 29, 2008).

⁶ Section 3553(a) requires the court to “impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth” in Section 3553(a)(2). Although that provision is “often cited by defendants as if it were an admonition to be lenient,” *United States v. Navedo-Concepcin*, 450 F.3d 54, 58 (1st Cir. 2006), it merely directs the district court to impose a sentence that is consistent with the factors in Section 3553(a)(2), most of which “hardly connote less punishment.” *Id.* Moreover, the “not greater than necessary” language does not require that the sentencing court, “having explained why a sentence has been chosen, also explain why some lighter sentence is inadequate.” *Id.*; *see United States v. Maciel-Vasquez*, 458 F.3d 994, 995 (9th Cir. 2006) (“neither *Booker* nor our circuit precedent impose any requirement that the court state why it chose a particular sentence rather than other potential sentences”).

Section 3553(a) lists, *inter alia*, the following factors relevant to a defendant's sentence: "the nature and circumstances of the offense and the history and characteristics of the defendant. . . the need for the sentence imposed to reflect the seriousness of the offense, and to promote respect for the law, and to provide just punishment . . . to afford adequate deterrence . . . to protect the public from further crimes of the defendant . . . to provide the defendant with needed training and medical care . . . [and] to avoid unwarranted sentence disparities" among similarly situated defendants. *Id.* A district court is not required to refer specifically to *each* factor listed in Section 3553(a)," nor is it required "to explain *sua sponte* why it did not find [a particular] factor relevant to its discretionary decision" if "a defendant has not asserted the import of [that] factor.'" *Bras*, 483 F.3d at 113 (*quoting Simpson* 430 F.3d at 1186-1187 (emphasis in original). As the Supreme Court noted in *Gall*, "[t]he sentencing judge sees and hears the evidence, makes credibility determinations, has full knowledge of the facts and gains insights not conveyed by the record." *Gall*, 128 S.Ct. at 597.

Argument

Mr. Jones stands before this Court as someone who spent the better part of the past 15 years dealing crack cocaine in the Congress Park neighborhood. Mr. Jones's two convictions in this case for the crack cocaine distributions represent merely a snapshot of how he used his time in Congress Park during these years. In addition, Mr. Jones chose to actively participate in the charged conspiracy in this case, by among other things, committing acts of violence (such as the attempted murder of Bradley Carter and the stabbing of Michael Smallwood), making false sworn statements in a Superior Court grand jury investigating a murder committed by his co-conspirator, Dominic Samuels, and taking active measures to protect the Congress Park crack cocaine market (by doing such things as playing the game "doors" with other members of the conspiracy, and threatening members of the private security force at Congress Park). For these reasons, the government respectfully submits that a sentence at the

low-end of the recommended Guidelines range – *i.e.* 365 months of incarceration – is a reasonable sentence to impose on Mr. Jones. A sentence within this recommended range would still constitute half of the 60 years that Mr. Jones faces by statute.⁷

Despite the frequent use of the term “acquitted conduct” in case law and elsewhere, much of the conduct considered by the PSI writer and/or contained in the instant government memorandum is not acquitted conduct. Rather, it is either uncharged conduct, or conduct upon which the jury never voted. Indeed, the jury acquitted on the conspiracy counts because they did not unanimously agree, beyond a reasonable doubt, with the government’s theory of the partnership among the charged defendants. The jury never voted, one way or another, if Joseph Jones dealt or possessed with intent to distribute over 1.5 kilograms of crack cocaine in Congress Park. Similarly, they never voted, one way or another, on whether Jones and Antwuan Ball shot with the intent to kill Bradley Carter, or lied in the Superior Court grand jury during the Jamel Sills murder investigation.

What remains, therefore, is an ample record before this Court to apply its discretion – with guidance from the U.S.S.G. and Section 3553(a) – in imposing the appropriate sentence to a person who spent the better part of 15 years distributing poison within the Congress Park community and intentionally engaging in other criminal acts in furtherance of the goals of the charged conspiracy in this case.

⁷ Indeed, *each* of the counts that Mr. Jones was convicted of carries a statutory maximum sentence of 30 years incarceration. That means that when it passed the Uniform Controlled Substances Act, Congress determined that there would exist at least some defendants who warranted a 30-year sentence for committing the crime for which Mr. Jones has been twice convicted. Indeed, the Sentencing Guidelines explicitly provide for such instances where the appropriate sentence would require the imposition of consecutive sentences. *See* U.S.S.G. Section 5G1.2; *see also United States v. Moore*, 564 F.2d 482, 485 (D.C. Cir. 1997) (“It is well established that a district court in a narcotics case may in its sound discretion make some sentences consecutive to others.”) (citing cases).

I. The United States Probation Office correctly calculated that under the U.S.S.G., Mr. Jones faces a period of incarceration of 365 months to life.

Mr. Jones's PSI recommends a sentence of between 365 months to life incarceration. This calculation is based largely on Mr. Jones's drug dealing for the better part of the past 15 years, as well as his criminal history.⁸

A. Mr. Jones is accountable for the distribution or possession with intent to distribute 1.5 kilograms of crack

The record in this case has sworn testimony establishing that Mr. Jones distributed and/or possessed with the intent to distribute over 150 grams of crack cocaine by himself personally, and is also responsible for over 1.5 kilograms of crack because of his active role in the charged conspiracy in this case.⁹

1. Controlled Purchases Presented During Trial.

The government presented evidence of two separate controlled purchases in this case in which Mr. Jones sold crack cocaine to witnesses cooperating with the FBI. The jury convicted Mr. Jones of each of these two controlled purchases (counts 10 and 14):

Date	Cooperating Witness	Grams	Price	NT#	Count	Government Exhibit Series
8/3/00	Sandra White	1.50	\$190	NT-37	10	307
1/9/01	Gail Parson	0.27	\$30	NT-66	14	310

⁸ According to the PSI, Jones is a career criminal, as defined at U.S.S.G. Section 4B1.1. See PSI at Paragraph 62.

⁹ Were this Court only going to attribute the crack cocaine that this record establishes Jones personally handled, Jones would have a base offense level of only 34, rather than a 36. See PSI at Paragraph 56, and U.S.S.G. Section 2D1.1(C) (1)(3) (Drug Quantity Table).

**2. Witnesses who testified regarding
Jones's drug dealing in Congress Park**

Several witnesses testified at trial regarding Jones's personal crack cocaine dealing in Congress Park.

a. Larry Browne¹⁰

Witness Larry Browne testified that from approximately 1995 through 2000, he would come in contact with his cousin, Joseph Jones, approximately 2 times per week in Congress Park. Many of those times, Browne found Jones spending time alongside Antwuan Ball, Desmond Thurston, Gregory Bell and David Wilson. 3/5/07 Tr. at 1362-63. During this time period, Browne estimated that he provided Jones with crack cocaine approximately five separate times. When Browne did this, the amount of crack cocaine he provided to Jones was "no more than three grams" in each instance. 3/5/07 Tr. at 1363-65.

At a later time, witness Larry Browne was asked on cross-examination who some of the people were that he remembered sold crack cocaine in Congress Park in the mid-1990's. Browne testified that, "it's quite a few of them." When pressed, he named the following individuals: "Boy-Boy [Gregory Bell], Cool Wop [David Wilson], JoJo [Joseph Jones and] Burt [Burke Johnson.]" 3/6/07 Tr. at 1825-26.

Browne's testimony leads to an attribution of a bare minimum of 15 grams of crack cocaine to Jones. (5 (times) x 3 (grams) = 15 grams).

¹⁰ Copies of the trial transcript pages of Browne's testimony regarding Jones's crack cocaine dealing is attached hereto as **Exhibit A**.

b. Bobby Capies¹¹

Bobby Capies testified that in the mid-1990s several people would congregate inside of “Mom’s” house on 13th Place. Capies further testified that “[e]veryone around there would sell coke” in Congress Park. 3/29/07 Tr. at 4899-900. When pressed as to who “everyone” included, Capies identified the following individuals: “Wop, Twan, Jo-Jo, Don, Dazz, Jazz, Santu, Boy-Boy.” *Id.* at 4900. At another point of his testimony, Bobby Capies testified that during 1992- 1996, he saw the following individuals “hustling” crack cocaine in “the Circle” of Congress Park: “Doo-Doo . . . Jo[J]o, Antwuan, Kairi, Boy-Boy, Fat Tony.” 3/29/07 Tr. at 4973-74; 4978-80.

Bobby Capies further testified that in approximately 1997, many of the same individuals were still selling crack cocaine in Congress Park; specifically: “Me [Capies], Wop, Dazz, LT, Terrance . . . Ju-Ju, Jo-Jo, Sant, Jazz, Boy-Boy.” 4/2/07 Tr. at 5192-93.¹²

Bobby Capies testified that on one occasion in the late 1990's, Capies saw Quincy Thomas sell approximately one half of an ounce of crack cocaine to Joseph Jones. 4/2/07 Tr. at 5211-15.

With the exception of the half ounce of crack cocaine (14 grams) that he saw Thomas sell to Jones, Capies’ testimony regarding crack cocaine sales made by Jones is general in nature. Accordingly, even if Capies’ testimony is estimated in an extremely conservative manner, this leads to a minimum of 300 grams of crack cocaine being attributed to Jones from Capies’ testimony alone. The assumption that Jones sold only 10 dimes of crack per week, for an average of six years (1993-

¹¹ Copies of the trial transcript pages of Capies’s testimony regarding Jones’s crack cocaine dealing is attached hereto as **Exhibit B**.

¹² Capies’ testimony that Jones was one of the regular, accepted crack cocaine dealers in Congress Park is established by Keith Barnett. Barnett testified that when he (Barnett) would be selling crack cocaine in Congress Park, he would see Joseph Jones also selling crack cocaine on Savannah Street, SE. 4/18/07 Tr. at 7545-46. Copies of the trial transcript pages of Barnett’s testimony regarding Jones’s crack cocaine dealing is attached hereto as **Exhibit C**.

1999) leads to an estimate of approximately 3000 zips of crack sold (10 (zips) x 50 (weeks per year) x 6 (years) = 3000 ziplocks).¹³

c. Cedric Conner¹⁴

Witness Cedric Conner testified that he sold 31 grams of crack cocaine to Joseph Jones in the 1999-2000 time period. In exchange for the crack cocaine, Jones gave Conner a motorcycle as payment. 4/23/07 Tr. at 8186-87. During cross-examination, Conner confirmed that this sale was for 31 grams of crack cocaine in exchange for a motorcycle. 4/24/07 Tr. at 8472-73.

d. Kairi Kelliebrew¹⁵

Kairi Kelliebrew further testified that he began selling crack cocaine in Congress Park when he was around 13 or 14 years old. 5/7/07 Tr. at 10112. One of the first people who he bought crack cocaine from at that time was Gregoy Bell. In addition to Bell, he also purchased crack cocaine from “everybody” at the time, which included Antwuan Ball and Joseph Jones. *Id.* at 10113. Kelliebrew stated that at that time, he would get crack from Boy-Boy, “might be every day, every other day. If I had some money or if he wanted to give me something, he’d throw me some dimes. . . .” *Id.* at 10118.

Kairi Kelliebrew also testified about the period of time in the late 1990's when Congress Park was beefing with members of rival 10th Place. Kelliebrew testified that because of the increased violence, many of the drug dealers in Congress Park congregated near “the Lincoln” and “the Circle.” He also mentioned that while Joseph Jones could often be found in this area, and was also often “back around the alley[.]” 5/7/07 Tr. at 10168-69. Kelliebrew also testified that around this time, he “got

¹³ Ten ziplocks of crack constitutes approximately 1 gram.

¹⁴ Copies of the trial transcript pages of Conner’s testimony regarding Jones’s crack cocaine dealing is attached hereto as **Exhibit D**.

¹⁵ Copies of the trial transcript pages of Kelliebrew’s testimony regarding Jones’s crack cocaine dealing is attached hereto as **Exhibit E**.

drugs from him [Jones] a couple of times.” When asked what this meant, Kelliebrew explained, “Like I could say maybe three, four times I bought a half [ounce] from him. He said he was getting the coke from Meat [Demetrius Johnson].” *Id.* at 10169-71. This additional testimony attributes approximately another 40 grams of crack cocaine to Jones (3 (times) x 14 grams (half ounce) = 42 grams).¹⁶

* * * * *

Thus, conservative estimates based on the trial testimony of Browne, Capies, Conner, and Kelliebrew establish that Jones personally handled approximately 400 grams of crack cocaine in Congress Park throughout the 1990s and thereafter. This does not address the additional crack cocaine which the PSI writer correctly attributed to Jones for his knowing and intentional conduct within the charged conspiracy. Jones’s knowing and intentional membership in the conspiracy is discussed in the following section.

**3. There is abundant evidence in the trial record proving
(i) the partnership among the charged Congress Park Crew
members; and (ii) Joseph Jones’s membership within that Crew.**

There is ample evidence before this Court which demonstrates that Mr. Jones, along with his fellow co-defendants, knowingly and actively chose to participate in the conspiracies charged in the superseding indictment in this case.¹⁷

¹⁶ Kelliebrew’s testimony that Jones was dealing crack cocaine in the late 1999-2000 time period is also corroborated by trial witness Steve Marsh. Marsh also testified that during the time period that he spent with Antwuan Ball (1999-2001), Marsh got to know several of the people who owed Ball money because of crack cocaine that Ball had previously sold (or fronted) to them. One of those people was Joseph Jones. 4/30/07 Tr. at 9195-98. Copies of the trial transcript pages of Marsh’s testimony regarding Jones’s crack cocaine dealing is attached hereto as **Exhibit F**.

¹⁷ Numerous defendants have already admitted to factual proffers which formed the basis for this Court to accept their pleas to RICO Conspiracy. Similarly, another jury has already convicted a charged co-defendant, Newett Ford, of being a member of the same conspiracy brought against Mr. Jones. Moreover, the jury in the instant case convicted co-defendant David Wilson of having participated in the August 1998 double-homicide of Ronnie “Squid” Middleton

As set forth below, some of the more brazen acts that Jones committed in furtherance of the goals of the conspiracy were, (i) trying in 1994 (along with Antwuan Ball) to kill Bradley Carter as part of the ongoing “beef” with the rival 1-5 Mob; (ii) testifying falsely in the 2002 Superior Court grand jury investigation of the murder of Jamel Sills, aka “Black” committed by co-conspirator, Dominic Samuels; and (iii) stabbing with the intent to kill a known associate of Trevon Shaw, Michael Smallwood, in September of 2003.

a. Evidence from the trial record

At various times, members of the conspiracy, including at times Jones, (i) used the unique code word “doors” in order to share sales and customers; (ii) chased away drug dealers who were not from Congress Park; (iii) acted violently towards individuals from rival gangs in other neighborhoods; (iv) warned each other of the presence of law enforcement; (v) shared stashes; (vi) had common suppliers; (vii) fronted each other crack cocaine and (viii) shared proceeds from robberies. What follows are merely some additional examples of the partnership in crime that Jones shared with his fellow crew members.

“Doors”:

- Bobby Capies explained that several members of Congress Park participated in the “*uno dos tres* system” of sharing drug sales for safety reasons as a result of increased violence with 10th Place. *See, e.g.*, 4/2/07 Tr. at 5337.
- Robert Crawford also testified about seeing the game *doors* being played in Congress Park. Jones was among those people Crawford saw playing the game. 4/18/07 Tr. at 7553-54.

and Sabrina Bradley. The motive for this murder was retaliation against the rival 1-5 Mob for the 1993 murder of Congress Park member Maurice Doleman, aka Reecey. In addition, co-defendant Dominic Samuels recently pled guilty before this Court and admitted that he, in fact, killed Jamel Sills, aka Black, as was alleged in the superseding indictment in this case (and just as witnesses such as Jacques “JT” Powell, Kairi Kelliebrew, and Robert Pough had attested). These admissions and convictions certainly corroborate the evidence presented at trial that Mr. Jones, in fact, was a member of a conspiracy in Congress Park.

- Jacques “JT” Powell testified about selling crack cocaine in the 2000 to 2001 time period near “the Lincoln” and “the Circle,” and he identified the following people as sharing crack cocaine sales by playing the *uno, dos* “game”: “me [Powell], Kairi, Don, Wop, Dazz, Phil, Terrance, Jazz, Santu, Kay-Bay, everybody.” 5/21/07 Tr. at 12215

Copies of the relevant pages relating to “*doors*” are attached hereto at **Exhibit G**.

Violence Towards Rivals:

- Mr. Capies testified regarding an instance in early 1997, where Desmond Thurston told him about how Thurston, Ball, Antonio Roberson, aka LT, and David Wilson, aka Wop, “got in a shootout with some guys with 10th Place.” 4/2/07 Tr. at 5308. Capies further explained: “[Dazz] told me that him, Antwuan, LT, and Wop went down 10th Place to try to creep on them guys, and somebody opened fire on them, which they believe was Steve and Patrick, and they stopped the car and jumped out and opened fire back.” *Id.* at 5309-10; 5308-09.
- Kairi Kelliebrew also testified about the period of time in the late 1990's when Congress Park was beefing with members of rival 10th Place. Kelliebrew testified that because of the increased violence, many of the drug dealers in Congress Park congregated near “the Lincoln” and the Circle. 5/7/07 Tr. at 10168-69.

Copies of the relevant pages relating to violence towards rivals are attached hereto at **Exhibit H**.

Warnings About Law Enforcement:

- Bobby Capies testified regarding how he and some of his fellow co-conspirators would alert each other of when one of them saw “jumpout” police officers in the area. 4/4/07 Tr. at 5692.

Copies of the pages relating to warnings about law enforcement are attached hereto at **Exhibit I**.

Unity Within The Crew:

- Bobby Capies testified that after Ball pistol-whipped him in January 2001, he gave serious thought to retaliating against Ball by killing him. In doing so, he tried to enlist David Wilson, however, Wilson balked at the idea. When asked why he did not retaliate against Ball by himself, Capies explained that he could not do that because: “it would have been me against the Park. I would have got killed.” 4/3/07 at 5526.

Copies of the relevant pages relating to unity within the crew are attached hereto at **Exhibit J**.

Chasing Away Threats:

- Cedric Conner testified regarding an incident in 1999/2000 when he went near the Circle in Congress Park and began selling “hand-to-hand, . . . small quantities[.]” so that he could make a little extra money for a trip he was about to take. 4/24/07 Tr. at 8243-44. After, “making a lot of sales” for about 30 minutes, Desmond Thurston and Daniel Collins, aka DC, approached Conner and, “*told me that I couldn’t come around there and take all the money because I don’t be out there with them, you know, when they beefing and stuff like that. . . . [DC] told me they built that strip.*” *Id.* at 8246-48 (emphasis added). Conner ignored this request and continued to sell crack in the Circle. Approximately 25 minutes later, Antwuan Ball drove up to the area. *Id.* at 8249-52.
- Shortly after he ignored Thurston and Collins, Conner then saw them speak to Antwuan Ball, and then right after that, Ball walked across the street to talk to Conner. *Id.* at 8249-52. When asked what Ball said to him, Conner replied: “We had a conversation and the basis of the conversation was that I didn’t really have to be out there and *that was the way that they made their livelihood.*” *Id.* at 8283 (emphasis added). Conner then explained that “I then kind of saw that they went back to where he was and I took that as a warning and I left . . . [because] it could have got ugly.” *Id.* at 8254.
- Jacques “JT” Powell testified regarding an incident, in Congress Park, where he and Kairi Kelliebrew pulled a gun and knife, respectively, with the intention of scaring away two people they did not know, who they suspected were about to try selling crack cocaine in Congress Park. 5/22/07 Tr. at 12437-38.
- Donna Brown testified on July 16, 2007, regarding the difficulties she faced as a private security officer working in Congress Park during the 2000 to 2002 time period. In addition to general resistance she and her Eagle Security colleagues faced working in the neighborhood, she testified that she was threatened by several members of the charged conspiracy, including Desmond Thurston, Gregory Bell and Joseph Jones. Brown testified that on more than one occasion, Thurston told her that he would kill her. Gregory Bell made hand gestures in her direction, representing a pistol.

Copies of the relevant pages relating to chasing away threats are attached hereto at **Exhibit K**.

Harm To Potential Witnesses:

- Robert Pough further testified that he was present for a conversation with Antwuan Ball, Antonio Roberson, aka LT, and himself where Ball said to Roberson: “[H]urry up, he [Roberson] needed to hurry up and get out of the halfway house so he could start getting rid of some of the guys that he thought was going to flip.” 5/17/07 Tr. at 11786-89. Ball further explained that he was aware that the government was working on a ‘conspiracy case[.]’” *Id.* at 11787.
- During the last period of time Kellibrew was at large in the community, he also heard

Antwuan Ball in a discussion with others, including Joseph Jones, discussing prospective cooperating witnesses in the anticipated “conspiracy” case the government was planning to bring. Ball stated at this meeting: “We going to have to kill anybody we think that’s going to tell when they come, before they come. . . . We need to kill them before they bring this conspiracy.” 5/8/07 Tr. at 10557-58.

Copies of the relevant pages relating to harm to potential witnesses are attached hereto at **Exhibit L**.

Sharing, Fronting and Partnership:

- Jacques “JT” Powell testified that between 1995 and 1997, he partnered with Jasmine Bell and Dominic Samuels in buying and selling crack cocaine in Congress Park. During this time period, he also began to purchase crack cocaine from Gregory Bell. Powell estimated that he “was getting like wholesales, eight-balls . . . from him [Bell].” 5/21/07 Tr. at 12195-96. Powell explained that Bell “had wholesale whenever you need it.” *Id.* at 12196-97.
- Powell testified regarding an incident when fellow co-conspirator, Phil Wallace, robbed Powell of \$300 in Congress Park. At that time, Antwuan Ball came up on the scene and Powell complained to him that Wallace had stolen money from him. 5/22/07 Tr. at 12255-58. Ball then went up to Wallace and said: “Phil, *you got to give him that shit back because that’s my shit he got.*” *Id.* at 12258 (emphasis added). Powell explained that Ball had just recently fronted Powell approximately one-quarter of an ounce of crack cocaine to sell, and so Ball had a proprietary interest in Powell getting reimbursed for what was stolen from him. Wallace reimbursed Powell as he was instructed by Ball. *Id.* at 12258-59.

Copies of relevant pages relating to sharing and fronting are attached hereto at **Exhibit M**.

b. Additional evidence shows the existence of the charged conspiracy.

There was also additional evidence introduced to this Court – but not shown to the jury during trial – which further established the charged conspiracy in this case. For example, a one-page handwritten roster of names underneath the title “Congress Park Crew” was found in the bedroom of admitted co-conspirator, Raymond Bell, aka Santuce, and which included the names of each of the six defendants in this case. The Court ruled that, for evidentiary purposes, the jury should not consider this roster. The “Congress Park Crew” list was contained within **Government Exhibit 711.6** (Item 9). A copy of the “Congress Park Crew” list is attached hereto as **Exhibit N**. “Joe-Joe” is listed on this

sheet, on the same line as “J.T”, “D.C.”, and “Keith [and] Kevin [Barnett].”

In addition, based on evidentiary rulings, the jury was not allowed to receive each of the four complete grand jury transcripts of Antwuan Ball, Joseph Jones, Steve Sutton, aka Geeka, and Aman Ball, aka Bird, relating to the Superior Court investigation of the murder of Jamel Sills, aka Black. The testimony in each of these four grand jury transcripts: (a) falsely exculpated fellow co-conspirator Dominic Samuels (Samuels has since admitted committing the murder); (b) used exactly the same language in describing the fabricated perpetrator (“short, stocky”) in doing so; and (c) falsely discredited the government’s sole eyewitness to the murder, Kairi Kelliebrew, who at the time was known to be cooperating with the government. The four Superior Court grand jury transcripts were marked (but not admitted) as Exhibits 1200 (Ball GJ), 1201 (Sutton GJ), 1202 (Aman Ball GJ) and 1203 (Jones GJ). Only redacted portions of Mr. Ball’s and Mr. Jones’s grand jury transcripts were admitted into evidence at this trial (**Government Exhibit 1300**). The carbon-copy nature of the falsehoods contained in these grand jury transcripts is further evidence of the existence of the conspiracy, as is the fact that each of these false sworn accounts discredited their former co-conspirator, Kairi Kelliebrew. Copies of the relevant excerpts of the grand jury testimony of Antwuan Ball, Jones, Sutton and Aman Ball are attached hereto as **Exhibit O**.

* * * *

These examples are more than sufficient to support a finding that Jones actively participated in a conspiracy. Indeed, the D.C. Circuit has long recognized a chain conspiracy analysis that focuses on, instead of the conspiracy’s format, each conspirator’s intent ““to further the common unlawful objective.”” *United States v. Haire*, 371 F.3d 833, 837 (D.C. Cir. 2004), *vacated on other grounds*, 125 S.Ct. 1014 (2005), *judgment reinstated* 2005 WL 3279991 (D.C. Cir. July 22, 2005) (quoting *United States v. Tarantino*, 846 F.2d 1384, 1392 (D.C. Cir. 1988)). That common unlawful objective can be

as broad as merely “the distribution of narcotics.” *Haire*, 371 F.3d at 838 (finding sufficient for a conspiracy conviction evidence showing that “part of the objective of the conspiracy was to distribute drugs in Washington, D.C. and that this objective was accomplished”). “The existence of such a vertically integrated, loose-knit combination, may raise the inference that each conspirator has agreed with the others (some whose specific identity may be unknown) to further a common unlawful objective, e.g. the distribution of narcotics.” *Id.* See also *United States v. Banks*, 10 F.3d 1044, 1054 (4th Cir. 1993) (recognizing that contemporary drug conspiracies frequently “result[] in only a loosely-knit association of members linked only by their mutual interest in sustaining the overall enterprise of catering to the ultimate demands of a particular drug consumption market”); *United States v. Nunez*, 432 F.3d 573, 578 (4th Cir. 2005) (same) (citing *Banks* 432 F.3d at 1054); *United States v. Wilson*, 116 F.3d 1066, 1075 (5th Cir. 1997) *vacated by* 123 F.3d 213 (5th Cir. 1997) (“[t]he goal of selling cocaine for profit satisfies the common-goal requirement”) *and reh’g on different grounds by* 161 F.3d 256 (5th Cir. 1998); *cf. United States v. Roach*, 164 F.3d 404, 412 (8th Cir. 1998) (“[d]ealers who compete with one another may be members of the same conspiracy”).

Accordingly, at least 1.5 kilograms of crack cocaine should be attributed to Jones, because that represents a small fraction of the total amount of crack cocaine that the Congress Park Crew is responsible for distributing in Congress Park from 1993 through 2005.

B. Under the Sentencing Guidelines, Mr. Jones should receive a two-point enhancement for possession of a dangerous weapon pursuant to U.S.S.G. Section 2D1.1(b)(1).

Mr. Jones should also receive a two-point Guidelines enhancement for possession of a dangerous weapon. This is for several reasons.

As an initial matter, and as discussed more fully below, on February 20, 1994, Joseph Jones and Antwuan Ball shot with the intent to kill a carload of members of the 1-5 Mob, including Bradley

Carter. *See also* PSI at Paragraphs 41-44. This attempted murder was committed in furtherance of the goals of the charged conspiracy in this case, and was also committed at a time when Jones and Ball were selling crack cocaine in the Congress Park marketplace.

In addition, Jones was a fixture in the Congress Park crack cocaine market since its inception in the early 1990s through and until his arrest in 2005. Jones's partnership and profiteering with many of the other individuals who carried weapons and used violence to solidify and strengthen the market leads to a further reason why a weapons enhancement is appropriate for Jones. Indeed, Jones's shoulder-to-shoulder association with these other Congress Park crack cocaine dealers and the benefits he received from this knowing association, means that the actions of these other members (such as weapons possession, other armed robberies, and acts of violence) was within the scope of Jones' conspiratorial agreement with these other members of the conspiracy. *See United States v. Tabron*, 437 F.3d 63 at 76-77 (D.C. Cir. 2006).

For example, Bobby Capies testified how drug dealers in Congress Park not only participated in the "*uno dos tres* system" of sharing drug sales for safety reasons as a result of increased violence with 10th Place, *see e.g.* 4/2/07 Tr. at 5337, but carried and stashed weapons throughout the late 1990s and years that followed in Congress Park as well. 4/4/07 Tr. at 5681-82. Other witnesses, such as Robert Crawford, testified how Jones also participated in the "*doors*" game. 4/18/07 Tr. at 7553-54 and PSI at Paragraph 35. In addition, members such as Kairi Kelliebrew and Bobby Capies testified regarding how when violence erupted with the rival 10th Place neighborhood, many drug dealers in Congress Park began congregating near "the Lincoln" and "the Circle" for safety. *E.g.* 5/7/07 Tr. at 10168-69. Similarly, Bobby Capies testified regarding how he and some of his fellow co-conspirators would alert each other of when one of them saw "jumpout" police officers in the area. 4/4/07 Tr. at 5692. Jones unquestionably benefitted and profited from this enhanced protection and association.

Relevant copies of Capias' Crawford's, and Kelliebrew's trial testimony regarding the scope and nature of the conspiratorial agreement are attached hereto as **Exhibit P**.

One additional example of how Jones's knowing and intentional conduct and associations in Congress Park deserves an attribution of his weapons possession is his hostile conduct towards the legitimate security force who attempted to protect the Congress Park community and rid the neighborhood of drug dealers such as Jones. Donna Brown testified on July 16, 2007, regarding the difficulties she faced as a private security officer working in Congress Park during the 2000 to 2002 time period. In addition to general resistance she and her Eagle Security colleagues faced working in the neighborhood, she testified that she was threatened by several members of the charged conspiracy, including Desmond Thurston, Gregory Bell and Joseph Jones. *See* PSI at Paragraph 49.

For all of these reasons, Jones should receive a two-point enhancement pursuant to U.S.S.G. Section 2D1.1(b)(1).

C. Under the Sentencing Guidelines, Mr. Jones should receive a two-point enhancement for obstruction of justice pursuant to U.S.S.G. Section 3C1.1.

Earlier in this memorandum, the government discussed how Joseph Jones, Antwuan Ball, Steve Sutton and Aman Ball falsely testified how Kairi Kelliebrew stated that a "short, stocky" person committed the murder of Sills, rather than the tall and slim Samuels. *See Exhibit O* attached hereto. Kairi Kelliebrew has always consistently sworn under oath – more than once in the grand jury and multiple times at trial in this case – that the tall and slim Dominic Samuels had committed this murder. Further, Kelliebrew denied ever having told anyone that a "short, stocky" person committed the murder.

On the morning of January 24, 2008, Dominic Samuels took an oath to tell the truth before this Court and swore that he committed the murder of Jamel Sills. This unequivocal sworn statement by

Samuels establishes that Kairi Kelliebrew was telling the truth about the tall and slim Dominic Samuels having murdered Jamel Sills and further corroborates Kelliebrew's repeated denials that he ever told anyone that a "short, stocky" person committed the murder. The convenient nearly-exact language that each of the four men used in their sworn grand jury testimony further supports the conclusion that this grand jury testimony was part of an agreed-to effort to obstruct the government's investigation of Samuels' murder of Sills.

Perhaps more importantly, Mr. Jones's perjury merits significant punishment because it worked. By falsely exculpating a murderer and falsely discrediting the sole eyewitness to the murder, it is an understatement to say that Mr. Jones harmed the Sills murder investigation.

II. Application of the factors enumerated pursuant to Section 3553(a) does not compel a different result.

As set forth both in the PSI and above, the correct Guidelines analysis leads to an initial starting point and benchmark of a sentence of between 365 months to life incarceration for Mr. Jones. *Gall*, 128 S.Ct. at 596. After reviewing the entire trial record, as well as the PSI, through the additional lens of Section 3553(a), leads to the conclusion that there is no compelling reason for this Court to impose a sentence below this benchmark. Indeed, the Guidelines calculations did not take into consideration the following three additional events, which further demonstrate that Jones is a danger to the community and deserving of serious punishment: (i) the February 20, 1994 attempted murder of Bradley Carter; (ii) the September 5, 2003 stabbing of Michael Smallwood; and (iii) a 1994 armed robbery of Robert Crawford. Each of these additional serious crimes is discussed below.

A. The Attempted Murder of Bradley Carter

Detective Oliver Garvey testified that he was assigned as the lead detective to investigate the February 20, 1994 attempted murder of Bradley Carter and three other 1-5 Mob associates by Antwuan

Ball, Joseph Jones, and Kairi Ball, which was a shooting that was done in retaliation for the 1993 murder of Marucie Dolemen, aka Reecy. Detective Garvey testified that at the scene, Bradley Carter was initially uncooperative, but then cooperative later when he later came to Detective Garvey's office on March 8, 1994. At this second meeting, Mr. Carter identified Antwuan Ball and Joseph Jones as two of the men who had shot at him. Detective Garvey testified regarding the two separate photo-identification procedures that he conducted with Mr. Carter. The first of these identification procedures happened on March 8, 1994, and during this procedure, Mr. Carter clearly and unequivocally identified Mr. Ball as one of the people who had shot at him on February 20, 1994. The exhibits relating to this first identification were marked and admitted as **Government's Exhibit 400.9 and 400.3J, 400.3L, 400.3M 400.3N, 400.3O, 400.3P, 400.3Q, 400.3R and 400.3S.** 5/31/07 Tr. at 13708-13.

Detective Garvey conducted the second identification procedure with Mr. Carter two days later, on March 10, 1994. During this second procedure, Mr. Carter was cooperative and clearly and unequivocally identified Joseph Jones as the second gunman who shot at him and his associates in the car. 5/31/07 Tr. at 13714-18. Detective Garvey memorialized Mr. Carter stopping when he saw the photograph of Joseph Jones and stating: "There he is. That's Jojo. He was shooting from the back." *Id.* at 13717. The exhibits relating to this second identification procedure were marked and admitted as **Government's Exhibits 400.3A, 400.3B, 400.3C, 400.3D, 400.3E, 400.3F, 400.3G, 400.3H and 400.3I.**

The Court might recall that the government went to great lengths to secure Mr. Carter as a witness at trial in this case. Mr. Carter was generally uncooperative and made it clear that he did not want to be called as a witness at trial. And when he was called to the stand, Mr. Carter purported to have altogether forgotten the entire February 20, 1994 shooting. In fact, he claimed, incredibly, not to

have any memory at all of ever having been shot. As a result of Mr. Carter's contrived memory lapse, the government was allowed to mark and admit two separate sworn grand jury transcripts in which Mr. Carter on two separate occasions gave a detailed and sworn account of Mr. Ball and Mr. Jones having shot at him in the car on February 20, 1994. These two separate grand jury exhibits were marked and admitted into evidence at this trial as **Government's Exhibit 1231** and **1232**. These exhibits were shown to Mr. Carter, and published to the jury during Mr. Carter's trial testimony on the afternoon of May 30, 2007.

Witness Damion Greene testified that he was a member of the 1-5 Mob back in 1994 and that he was with Bradley Carter on the night that he was shot by Antwuan Ball and Joseph Jones on February 20, 1994. Bradley ran up to Greene and others very shortly after the shooting. Greene remembered that Carter, "was real hyped . . . [and] he was tired, he was just – you could tell he'd been running." 5/31/07 Tr. at 13804-06. Greene recalled Carter saying that Carter "had seen Antwuan and Jo-Jo in the car[]" and also that "Antwuan started shooting out the window of his car." Greene did not recall Carter saying anything about Jones shooting as well. *Id.* at 13806-07.

Copies of the relevant transcript pages of Mr. Carter's and Mr. Greene's trial testimony relating to this attempted murder are attached hereto at **Exhibits R** and **S**, respectively.

B. The Stabbing of Michael Smallwood

Witness Michael Smallwood testified about how in September of 2003, he got into a fight with Joseph Jones and Antwuan Ball in Congress Park shortly after he was wrestling with a younger person in the neighborhood named Gerald. Smallwood explained that while he was fighting with Jones, he then noticed that he was stabbed. He was not certain if Antwuan Ball was engaged with him as well at the time he was stabbed. Smallwood was clear, however, that he was not brandishing any weapon when Jones stabbed him. 6/14/07 Tr. at 15508-16. Michael Smallwood sustained very serious injuries

as a result of this stabbing. His medical records relating to this stabbing were introduced at trial as **Government Exhibit 405**. During cross-examination as well as during closing arguments, defense counsel essentially conceded that Jones had stabbed Smallwood; however, suggested that Jones committed the stabbing in defense of another. Copies of the trial transcript pages of Smallwood's testimony regarding this stabbing are attached hereto as **Exhibit T**.

Detective J.V. Francis testified that on December 29, 2004, he conducted two, separate single-photo identification procedures with Michael Smallwood. During these identification procedures,. Smallwood identified Mr. Jones as the person who stabbed him, and Mr. Ball as another person with whom he was fighting at the time. 6/14/07 Tr. at 15603-15609. The photographs of Jones and Ball that Mr. Smallwood reviewed and signed during these identification procedures were marked and admitted into evidence as **Government's 405.1 and 405.2**. Copies of the trial transcript pages of Detective Francis's testimony regarding these identification procedures are attached hereto as **Exhibit U**.

Witness Tanikia Gray testified that she was outside when Michael Smallwood was stabbed by Joseph Jones. Ms. Gray corroborated the basic account of the fight and stabbing that was also provided by Smallwood. 6/18/07 Tr. at 15767-75. Copies of the trial transcript pages of Gray's testimony regarding this stabbing are attached hereto as **Exhibit V**.

C. Armed Robbery of Robert Crawford

Witness Rob Crawford testified that in approximately 1994, Joseph Jones drove by the 10th Place neighborhood and fired shots, and ultimately not hitting anyone. 4/16/07 Tr. at 7081-86. Mr. Crawford later testified that shortly after this shooting, Mr. Jones robbed Mr. Crawford at gunpoint while Mr. Crawford was dealing marijuana in 10th Place. *Id.* at 7088-91. Copies of the trial transcript pages of Crawford's testimony regarding this shooting and armed robbery are attached hereto as **Exhibit W.**

Conclusion

Mr. Jones stands before this Court as a man who chose to spend the better part of the past 15 years spreading multiple kilograms of poison throughout the community, and actively associating with a crew of individuals who committed many crimes throughout the Congress Park neighborhood (as well as neighboring communities). The government respectfully submits that a significant sentence, at the low-end of the recommended Guidelines range, is not only well within this Court's discretion to impose, but would also provide just punishment, reflect the nature and seriousness of Mr. Jones's reckless criminal behavior, promote respect for the law, provide adequate deterrence, and protect the public from further, similar, criminal behavior.

WHEREFORE, the United States respectfully requests that the Court sentence defendant Joseph Jones to, *inter alia*, a period of incarceration of at least 365 months.

Respectfully submitted,

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Exhibit A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : March 5, 2007
 DOMINIC SAMUEL, : 9:15 a.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 11 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

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For Defendant
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1 Jo-Jo, correct?

2 A. Yes, sir.

3 Q. You felt comfortable -- withdrawn.

4 Did you feel comfortable visiting Jo-Jo in Congress Park?

5 A. Oh, yes, sir. Yeah.

6 Q. And when you saw Jo-Jo during -- withdrawn.

7 During this period of time, 1990 -- let's keep it from
8 1995 to 2000, that five-year or so period, how often would you
9 come into Congress Park to visit Jo-Jo or visit others?

10 MR. MARTIN: Objection, compound.

11 THE COURT: Break it down.

12 BY MR. LEON:

13 Q. Sure. During this period of time, 1995 to 2000, those
14 five years or so, late 90s, how frequently would you come into
15 Congress Park to visit Jo-Jo?

16 A. On average, two times a week.

17 Q. And would you ever come into Congress Park to hang out
18 with other people during this time or was it always Jo-Jo?

19 A. Always Jo-Jo.

20 Q. And was Jo-Jo always there? Did you know he was going to
21 be there every time you went in?

22 A. Majority of the time, he was there.

23 Q. And during this period of time, 1995 to 2000 when you
24 would see Jo-Jo those two to three times a week, would he be
25 alone or with other people?

1 A. No, he be with his friends.

2 Q. And who would those friends be?

3 A. Twan, Wop, Dazz, Boy-Boy -- a lot -- you know, his
4 friends.

5 Q. Okay. During this period of time, and let's keep it to
6 that time period in 1995 to 2000, those five years or so in the
7 late 90s, did you ever sell, meaning sell for money, cocaine to
8 Jo-Jo?

9 A. No, sir.

10 Q. During that same period of time, 1995 to 2000, did you
11 ever have any dealings with cocaine with Jo-Jo?

12 A. No dealings. I would give Jo-Jo cocaine.

13 Q. Okay. Why would you -- did you get money from him or you
14 just gave it to him?

15 A. No, I would just give it to him.

16 Q. Why would you just give Jo-Jo cocaine for no money?

17 A. That's my cousin.

18 Q. How often would you do this?

19 A. I mean, rarely. Just probably when he needed some money
20 or --

21 Q. When you say "rarely," in those -- let's break it down.
22 In those five years, 1995 to 2000, those five years or so, how
23 frequently or infrequently would you just give him cocaine?

24 A. I only gave him cocaine on several occasions.

25 Q. Yes or no, can you put a number on that? Or just

1 several?

2 A. Just several. I couldn't --

3 Q. Is it more than -- can you give us a low number, on the
4 low end, how many times it was?

5 A. Five times.

6 Q. And on those five times or so when you would give Jo-Jo
7 cocaine, what form was it in?

8 A. Rock.

9 Q. And how much would it be?

10 A. Three grams. No more than three grams.

11 Q. And would you offer it or would he ask for it?

12 A. I mean, he might tell me that, you know, he don't have no
13 money and I just -- I just get him some drugs so he can make him
14 some money.

15 Q. Did you ever just give crack cocaine to anyone else in
16 Congress Park for no money back?

17 A. No, sir.

18 Q. Did you ever give crack cocaine to anybody anywhere in
19 any neighborhood for getting no money back?

20 A. No, sir.

21 Q. Now, I'd like to go to 2000, okay? This would be the
22 year before you were locked up in March of 2001, and this would
23 be that year, 2000, okay?

24 In the early part of that year, the early part, winter
25 and spring, okay, the first part of that year, focusing on David

1 Wilson, did you ever sell him any marijuana that was beyond just
2 for personal use?

3 A. No, sir.

4 Q. And did he ever sell you, during that first part of 2000,
5 any marijuana of any amounts?

6 A. No, sir.

7 Q. Okay. Same question with respect to cocaine, either
8 powder or crack: Any cocaine of any form, did you ever sell to
9 him in that early part of 2000, David Wilson?

10 A. No, sir.

11 Q. And with respect to -- and with respect to him to you,
12 did he ever sell you any cocaine of any form in that early part
13 of 2000?

14 A. No, sir.

15 Q. Okay. Now let's go ahead. Now we're in the middle of
16 2000. Did there come a time with respect to marijuana where you
17 ever bought or sold marijuana to or from David Wilson?

18 MS. WICKS: Objection as to leading, Your Honor.

19 THE COURT: I'll allow it. Go ahead.

20 BY MR. LEON:

21 Q. You can answer the question.

22 A. Yes, I purchased marijuana from him.

23 Q. You purchased from him?

24 A. Yes, sir.

25 Q. Do you remember when this was?

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	Docket No. CR 05-100
	:	
Plaintiff	:	
	:	
v.	:	Washington, DC
	:	
ANTWUAN BALL,	:	
DAVID WILSON,	:	
GREGORY BELL,	:	March 6, 2007
DESMOND THURSTON,	:	
JOSEPH JONES,	:	
DOMINIC SAMUELS,	:	
	:	
Defendants	:	2:00 p.m.
.	:

VOLUME 12 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS,
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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GIL GUERRERO, ESQUIRE
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STEVEN CARL TABACKMAN, ESQUIRE
TIGHE, PATTON, ARMSTRONG,
TEASDALE, PLLC
1747 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006
(202) 454-2811

1 men who sold drugs in Congress Park around that time?

2 A. Yes.

3 Q. Tell us some of the names of people you remember who sold
4 drugs in Congress Park at that time in the mid-1990s that you
5 dealt with.

6 A. I mean, it's quite a few of them. Boy-Boy.

7 Q. We're going to ask you to keep your voice up and please take
8 your time. But please keep your voice up.

9 A. Cool Wop, Jojo. Like I said, it's just a lot of them.

10 Q. Okay. Well, we're going to ask you -- you said a lot, so we
11 want to know who they are. Take your time, and I'm going to ask
12 you who you mean.

13 You've mentioned three people. You said Boy-Boy,
14 Cool Wop, and Jojo.

15 A. Burt.

16 Q. Say that name again.

17 A. Burt.

18 Q. Burt. You said a lot, and you just named four people. Are
19 there more people than that?

20 A. Yes.

21 Q. Okay. You're hesitating. Is there a reason you're
22 hesitating?

23 A. I'm tired, really. I'm really not feeling well, so I'm
24 doing the best I can.

25 Q. Okay. That's all we're asking right now. But are there

1 other people that you're not mentioning?

2 A. Yes, there are.

3 Q. Well, I'm going to ask you to give it some time right now as
4 best you can to try to remember those other people. Just take
5 your time.

6 A. Santuce (ph), Jazz, DC, Don.

7 Q. As you sit here, can you think of other names right now?

8 A. No, not at this time.

9 Q. Are there other names?

10 A. Yes, there are.

11 Q. Well, let's start with the people you did mention. You
12 mentioned Boy-Boy. In, let's start in mid-1990s, 1995, did you
13 have -- did you buy drugs from Boy-Boy?

14 A. Yes.

15 Q. You also mentioned somebody by the name of Cool Wop. In the
16 mid-90s, did you ever buy drugs from Cool Wop?

17 A. Yes.

18 Q. And each time I'm using the word "drugs," I'm referring to
19 crack cocaine.

20 A. Crack cocaine.

21 Q. Is that what you're referring to?

22 A. Yes.

23 Q. You also mentioned the name Jojo. In the mid-1990s, did you
24 purchase crack cocaine from Jojo?

25 A. Yes.

Exhibit B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : March 29, 2007
 DOMINIC SAMUELS, : 9:15 a.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 26 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

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Ann H. Petalas, Assistant United
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For Defendant
Antwuan Ball: CARNEY & CARNEY
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Washington, DC 20004
202.434.8234

1 A. Yes, sir.

2 Q. Have you been in Mom's house?

3 A. Yes, sir.

4 Q. A lot or a little?

5 A. A lot.

6 Q. When you were in there, did you see Antwuan in there?

7 A. Yes, sir.

8 Q. A lot or a little?

9 A. A lot.

10 Q. Who else would you see in Mom's house back around this

11 time?

12 A. Jo-Jo, Boy-Boy, Geeka, Fat Tony.

13 Q. Can you see Mom's house on this map?

14 A. Yes, sir.

15 Q. Can you tap on the approximate area were you see Mom's

16 house.

17 A. (Indicating.)

18 Q. Okay. And for the record, you put a dot just above the 1

19 in 13th Place, which is a little north of the circle; is that

20 fair?

21 A. Yes, sir.

22 Q. Okay. Is Mom's house on the left side of 13th Place or

23 the right side of 13th Place?

24 A. What you mean, coming out? If you coming out, it's on

25 the right side.

1 Q. Okay. It's on the part closer towards 14th Place or
2 towards 13th Street?

3 A. Naw, that's 13th, sir.

4 Q. Okay. Is it on the side closer towards the Lincoln or
5 the other side of the street?

6 A. The Lincoln side.

7 Q. Okay. Did you ever sell to Mom?

8 A. Yes, sir.

9 Q. A lot or a little?

10 A. A lot.

11 Q. Do you know if anyone else sold to Mom?

12 A. Yes, sir.

13 Q. Who?

14 A. Everybody around there that sell coke, that I knew was
15 serving coke.

16 Q. I'm going to ask you to be more specific. In your mind,
17 when you say everyone around there who sold coke, who are those
18 people?

19 A. Wop, Twan, Jo-Jo, Don, Dazz, Jazz, Santu, Boy-Boy.

20 Q. All of the people that you just mentioned who sold to
21 Mom, did you see all -- each of those people do that with your
22 own eyes?

23 A. Yes, sir.

24 Q. A lot or a little?

25 A. A lot.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100
:
Plaintiff :
:
v. : Washington, DC
:
ANTWUAN BALL, :
DAVID WILSON, :
GREGORY BELL, : March 29, 2007
DESMOND THURSTON, :
JOSEPH JONES, :
DOMINIC SAMUELS, :
:
Defendants : 1:00 p.m.
..... :

VOLUME 26 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS,
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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1 A. (Witness complies.)

2 Q. And for the record, you've indicated someone also squatting
3 or kneeling, wearing a baseball cap. Of the three people
4 squatting or kneeling on this photograph, he's the one in the
5 center holding what appears to be a beer bottle in his left
6 hand.

7 A. Yes, sir.

8 Q. Okay. What connection if any does Doo-Doo have to Congress
9 Park during the 1992 to 1996 period?

10 A. He was hustling around there.

11 Q. What do you mean by "hustling around there"?

12 A. Selling drugs.

13 Q. What part of Congress Park did Doo-Doo hustle in the '92 to
14 '96 period, if you know?

15 A. I used to see him. He used to be in the circle sometimes,
16 but I mainly used to see him in the Boat Alley.

17 Q. When he was in the Circle, was he alone or with others?

18 A. Yes, sir.

19 Q. Which? Was he alone or with others when he was hustling in
20 the circle?

21 A. Oh, he was with others.

22 Q. Who?

23 A. Jojo, Antwuan, Kairi, Boy-Boy, Fat Tony.

24 Q. Now, let me just stop there. A few different times I've
25 asked you, when someone is in the circle, who else is there?

1 For example, right here you just said Doo-Doo, Jojo, Antwuan,
2 Kairi, and Boy-Boy I think you just said now. You've mentioned
3 about, I think that's five people.

4 Were there -- other than the five people you just
5 identified in response to this question, how many more people
6 were there out there in the circle selling when you saw this
7 group of five people selling?

8 A. I mean, that was they stationary spot --

9 MR. ZUCKER: Objection.

10 THE COURT: Hold on one second.

11 MR. ZUCKER: Objection. The question is so vague as to
12 time and association.

13 THE COURT: Well, come on up.

14 (BENCH CONFERENCE ON THE RECORD.)

15 THE COURT: Before we get to your objection, I thought
16 I heard his answer being, "Sometimes I would see him in the
17 circle, but most of the time I would see him in Boat Alley."

18 The predicate of your question was, "You've said, with
19 respect to the circle, the following people." The names that
20 you named I thought were names that came out in connection with
21 Boat Alley.

22 MR. LEON: I may have -- first, I may have
23 misunderstood his answer, so I can certainly take a step back
24 and clear that up. That was not an intentional
25 misrepresentation.

1 THE COURT: I thought his answer included a time
2 period. His answer about when Kairi died included part of a
3 time period you were asking. Maybe I misremember the answer.

4 MR. LEON: I can try to clean it up. I understand the
5 point.

6 (END BENCH CONFERENCE.)

7 BY MR. LEON:

8 Q. Mr. Caples, I think you said that Kairi died, I think you
9 said sometime in '95?

10 A. Yes, sir.

11 Q. Okay. So before Kairi passed, let's say 1994, did you, to
12 the best of your memory, see Doo-Doo sell crack cocaine in the
13 circle in, say 1994?

14 A. Between them times, I could say I seen him roughly. But I
15 knew some of the time too, he was in jail too, some of the time.

16 Q. Okay. So can you put a year on it or no?

17 A. I don't understand what you say.

18 Q. Sure. You said at some point around then Doo-Doo was
19 incarcerated?

20 A. Yes, sir.

21 Q. Do you know exactly what parts of what years he was?

22 A. Like '92, something like that.

23 Q. Do you know if he was incarcerated in '94, if you know?

24 A. No, sir.

25 Q. Okay. Can you, in your mind as you sit here, remember a

1 time you saw Doo-Doo selling crack in the circle?

2 A. Yes, sir.

3 Q. When you saw Doo-Doo selling crack in the circle, was it --
4 roughly, can you number the number of times that he was selling
5 crack in the circle?

6 A. I don't know how many times, but I know it was like the end
7 of '95 going into '96.

8 Q. Okay. Do you know if, at that time, Kairi was alive or had
9 he already been killed?

10 A. I don't know. I know Kairi died in '95, but I don't know...

11 Q. Okay. And again, who are some of the people who you do
12 remember being around or near Doo-Doo when you saw Doo-Doo
13 selling crack cocaine in the circle area?

14 A. Jojo, Antwuan, Fat Tony. And like Kairi used to be in the
15 circle, too.

16 Q. And you mentioned a few people just now: Jojo, Antwuan,
17 Kairi, and Fat Tony. Were there other people around the circle
18 at that time that you just can't remember, or is that more or
19 less the group?

20 A. Boy-Boy.

21 Q. Okay. You mentioned Boy-Boy. Other than these people as
22 well as Boy-Boy, anybody else that you can't remember but were
23 there, or is that pretty much the group?

24 A. Is that time frame, Geeka used to come around there too.

25 Q. Okay, Geeka. Anybody else you can think of?

1 A. All the group that used to be across the street from 1313.
2 I mean, it's like everybody used to come around there, but there
3 was a certain group that was stationary right there. Everybody
4 had, back in that time, had like their own little group where
5 they was at.

6 Q. And that's what I'm getting at. You just --

7 MR. ZUCKER: Objection.

8 MR. LEON: Withdrawn.

9 THE COURT: Sustained. Go ahead.

10 BY MR. LEON:

11 Q. I want to pick up on your language, sir. You said something
12 about a group being stationary at the circle. What in your mind
13 did you mean when you said a group being stationary at the
14 circle. Who are those people?

15 A. Like Jojo, Antwuan, Kairi, Fat Tony. Geeka was coming
16 around there. He was really stationary around there with them.
17 They used to be like in the circle, in a lady named Mom's house.

18 Q. That's the Mom's that you talked about earlier this morning?

19 A. Yes, sir.

20 MR. LEON: May I approach, Your Honor?

21 THE COURT: Yes.

22 BY MR. LEON:

23 Q. Mr. Capies, I'm handing you what's marked for identification
24 as Government 's 208.1. Do you recognize the person who is
25 depicted on that exhibit?

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : April 2, 2007
 DOMINIC SAMUELS, : 9:15 a.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 27 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
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For Defendant
Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

sir.

Q. We're going to pull the map and see if it shows.

For the record, we're asking to publish to the jury Government's 100.1 and also, if I could ask you, Mr. Capies, to tap and clear the screen.

Okay. Do you see the map, Government's 100.1, which is in evidence?

A. Yes, sir.

Q. Can you just tap on the general area where this time, let's just say 1997, just to pick a year, where you were now dealing crack cocaine.

A. (Indicating.)

Q. Okay. For the record, you made two taps. The first or the second is the one -- did you mean both?

A. Yes, sir.

Q. Okay. So you made two marks, both of which are right just about in the center, a little bit away from each other, but right in the center of Government's 100.1.

Is that the general area where you were selling at that time?

A. Yes, sir.

Q. Now, when you were selling at that time -- you, Bobby Capies -- was anyone else selling in that area, that particular part of Congress Park?

A. Yes, sir.

Q. Who?

A. Me, Wop, Dazz, LT, Terrence, another guy named Ju-Ju, Jo-Jo, Dazz, Santu, Jazz, Boy-Boy.

Q. Now, what about the circle? We've talked about the circle earlier. First of all, were you selling at the circle?

A. Yeah, I was going in the circle hustling, but I mainly was at those two spots.

Q. Were there other people who were selling at the circle or -- well, first of all, yes or no, were there other people selling crack cocaine at the circle?

A. Yes, sir.

Q. Who?

A. Antwuan and another guy named Torran and another guy named Burke.

Q. Burke?

A. Yes, sir.

Q. And at that time when you and the people you just mentioned were selling in the area you just mentioned and Antwuan and Burke and Torran were selling near the circle, what was your relationship with the people that you indicated were selling at the circle?

A. It was cool.

Q. You mentioned Burke being one of the people selling near the circle. Did you yourself ever get drugs from Burke around this time?

A. Somebody who be around Congress Park, but don't always be around in the Congress Park.

Q. Okay. Did Quincy sell drugs in Congress Park?

A. Certain people.

Q. Okay. When -- which people did Quincy serve?

A. KL.

MR. ZUCKER: Objection, basis or just clarify the basis.

MR. LEON: Let me even ask another foundational question.

BY MR. LEON:

Q. When Quincy sold crack in Congress Park, did he sell to actual users or did he supply to sellers?

THE WITNESS: Sellers.

BY MR. LEON:

Q. Did you ever know Quincy to actually sell hand-to-hand to users?

A. No, sir.

Q. So, when Quincy supplied people who then sold to users, do you know how much he would supply?

MR. ZUCKER: Objection, basis.

MR. LEON: Okay.

BY MR. LEON:

Q. You said Quincy -- you said yes to the question, Quincy supplied people in Congress Park, correct?

A. Yes, sir.

Q. Okay. How do you know that?

A. He used to give me crack and I used to serve and give other people crack.

Q. Let's talk about you. When you said Quincy gave you crack, did you pay for it?

A. No, sir.

Q. Did he front it for you and you paid him later?

A. No, sir.

Q. He just gave you crack?

A. Yes.

Q. Why'd he give you crack, if you know?

MR. ZUCKER: Objection, basis.

THE COURT: Overruled.

MR. ZUCKER: Speculating on someone else's state of mind.

BY MR. LEON:

Q. I believe you can answer the question.

A. He gave it to me -- like if rent due or I'm broke or something, I go to him and tell him, let me get something and he give it to me.

Q. How much -- first of all, how many times did this happen, where he gave you crack?

A. A lot of times.

Q. Can you put a number on that?

A. No, sir.

Q. And did you ever pay him back in any way for that --

A. No, sir.

Q. Did you have any idea why he would do this for you, if you needed to pay rent or things like that?

A. Me and him was cool.

MR. ZUCKER: Objection. Withdrawn.

BY MR. LEON:

Q. You said you were "cool"?

A. Yeah.

Q. What do you mean by that?

A. Me and him were good friends.

Q. Now, you also said that -- I'm sorry, how much did he give you when he gave you crack?

A. I mean, just like quarters and stuff like that. He never really gave me no large, large amount.

Q. You also said that Quincy supplied other people, that you know this because you saw it?

A. Yes, sir.

Q. Did you see it or did you hear about it?

A. I seen it.

Q. Tell us who you saw Quincy, with your own eyes, also supply?

A. I seen him give Jo-Jo coke.

MR. MARTIN: Your Honor, could we have a time frame, please.

BY MR. LEON:

Q. Sure. With all my questions -- all my questions, I'm

asking about, at this period of time, it's '96 to 2001. If you can if any case be more specific, please do so, and I probably will ask you that here, but right now I'm asking about '96 to 2001. Did you see Quincy give drugs to Jo-Jo?

A. I don't know the year, but I remember him getting drugs, sir.

MR. MARTIN: Your Honor, move to strike.

THE COURT: Overruled.

BY MR. LEON:

Q. Can you -- you said you don't know the year. Can you think of anything that you do remember -- can you think of anything that would help you remember when this was?

A. I know it had to be after '98.

Q. Why did you say it had to be after '98?

A. Because that was around the time -- but I ain't sure of the year, so I don't want to just say it happened this time and it didn't, sir.

Q. Okay. Was this one time or more than one time?

A. One time that I seen.

Q. Just about what you saw. Tell us that one time that you saw Quincy give to Jo-Jo. What'd you see?

A. Quincy picked me up one day and he asked me -- he asked me, did I see Jo-Jo, and I was, like, naw, I ain't see him today. And we kept riding around till we seen him. And we pulled back up in the alley in-between Congress Street and

Savannah street, and Jo-Jo jumped in the back of the car and he gave him some coke.

Q. Were you there when that happened?

A. Yes, sir.

Q. And how much did Quincy give Jo-Jo?

A. It was, like, a half.

Q. Do you know if Jo-Jo paid for it?

A. Naw, I don't know.

Q. Did you see Jo-Jo take the crack?

A. Yes, sir.

Q. And who's car did this happen in?

A. It happened in Quincy's truck.

Q. Can you describe the truck?

A. It was a Tahoe, black Tahoe.

Q. Now, you've also -- earlier, you talked about Don getting from Burke. Do you remember that?

A. No, sir, I didn't tell you that.

Q. You didn't say that?

A. Oh, yeah, I thought you said I seen him getting it from Burke.

Q. I apologize if that's what I said. That Don told you he got it from Burke?

A. Yes, sir.

Q. Okay. Can you, just so the record is clear, do you see Don in the courtroom today?

Exhibit C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : April 18, 2007
 DOMINIC SAMUELS, : 9:16 a.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 36 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
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For Defendant
Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 just to the right of who you identified as Boy-Boy; is that
2 correct?

3 A. Yes.

4 Q. And who's that?

5 A. DC.

6 Q. Is that the DC you were talking about earlier?

7 A. Yes.

8 Q. Now you just placed an arrow to the person to the right
9 of DC. Do you recognize that person?

10 A. Yes.

11 Q. Who's that?

12 A. Jo-Jo.

13 Q. Do you see Jo-Jo in the courtroom today?

14 A. Yes.

15 Q. Would you please identify him by where he's sitting, item
16 of clothing.

17 A. To the left of me with a black shirt on, beige little
18 jacket.

19 MS. PETALAS: Your Honor, may the record reflect an
20 in-court identification of Jo-Jo -- Mr. Jones?

21 MR. MARTIN: We'll stipulate.

22 THE COURT: Request is granted.

23 BY MS. PETALAS:

24 Q. And did you ever see Jo-Jo selling?

25 A. Yes.

1 Q. And where would you see him selling?

2 A. On Savannah.

3 Q. You said on Savannah. Where on Savannah?

4 A. Like up there where the alley at, the Boat Alley.

5 Q. Did you ever sell with Jo-Jo?

6 A. Naw.

7 Q. Did you ever get crack cocaine from Jo-Jo?

8 A. Naw.

9 Q. Did you ever give him crack cocaine?

10 A. Naw.

11 Q. Who would you see him selling in the alley with, if
12 anybody?

13 A. Doo-Doo, Kell.

14 MR. MARTIN: Your Honor, I'm going to object to the form
15 of the question, "with."

16 THE COURT: Sustained.

17 BY MS. PETALAS:

18 Q. When you saw him selling cocaine, would there be other
19 people up in the alley selling cocaine?

20 A. Yes.

21 Q. And who would those people be?

22 A. Lucious.

23 Q. And did you see Lucious selling in Boat Alley?

24 A. Yes.

25 Q. Did you ever see Doo-Doo selling in Boat Alley?

Exhibit D

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100
:
Plaintiff :
:
v. : Washington, DC
:
ANTWUAN BALL, :
DAVID WILSON, :
GREGORY BELL, : April 23, 2007
DESMOND THURSTON, :
JOSEPH JONES, :
DOMINIC SAMUELS, :
:
Defendants : 1:50 p.m.
. :

VOLUME 38 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS,
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

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GLENN S. LEON, ESQUIRE
GIL GUERRERO, ESQUIRE
UNITED STATES ATTORNEY'S OFFICE
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Washington, D.C. 20530

For the Defendant JOHN JAMES CARNEY, ESQUIRE
Antwuan Ball: CARNEY & CARNEY
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TEASDALE, PLLC
1747 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006
(202) 454-2811

1 pointed to Jojo, who is standing to the left of DC?

2 A. Correct.

3 Q. And how did you know Jojo?

4 A. Jojo is my daughter' mom's first cousin.

5 Q. Say that again for us.

6 A. He's my daughter's mom first cousin.

7 Q. So your daughter's mother's --

8 A. First cousin.

9 Q. Is related to Jojo?

10 A. Yes.

11 Q. They are first cousins?

12 A. Yes.

13 Q. And up until '97 and '98, up until that point, had you ever
14 sold any crack cocaine to Jojo?

15 A. No.

16 Q. Did there come a point where you actually gave Jojo some
17 crack cocaine?

18 A. Yes.

19 Q. And when was that?

20 A. '99, 2000, somewhere in that neighborhood.

21 Q. And what quantity of crack cocaine did you give to Jojo?

22 A. I gave him 31 grams of crack cocaine.

23 Q. You gave him 31 grams of crack cocaine?

24 A. Correct.

25 Q. Why?

1 A. For a motorcycle. I offered it to him.

2 Q. What kind of motorcycle did you get in return for the
3 31 grams of crack cocaine?

4 A. It was -- I don't remember what kind of motorcycle it was.

5 Q. Describe it.

6 A. It was red. That's all I remember. I don't know what kind.
7 I can't remember.

8 Q. Is it one of those racing bikes?

9 A. Yeah, street bike, racing bike.

10 Q. And who did you give the 31 grams of crack cocaine to?

11 A. Mr. Jones.

12 Q. Joseph Jones?

13 A. Correct.

14 Q. Did you personally hand him the 31 grams?

15 A. Yes.

16 Q. And in exchange, you got what?

17 A. A motorcycle.

18 MR. MARTIN: Asked and answered, Your Honor.

19 Objection.

20 THE COURT: Sustained.

21 BY MR. GUERRERO:

22 Q. Did you keep the motorcycle?

23 A. No.

24 Q. Why not?

25 A. No paperwork with the motorcycle.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	Docket No. CR 05-100
	:	
Plaintiff	:	
	:	
v.	:	Washington, DC
	:	
ANTWUAN BALL,	:	
DAVID WILSON,	:	
GREGORY BELL,	:	April 24, 2007
DESMOND THURSTON,	:	
JOSEPH JONES,	:	
DOMINIC SAMUELS,	:	
	:	
Defendants	:	2:05 p.m.
.	:

VOLUME 39 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS,
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE
GLENN S. LEON, ESQUIRE
GIL GUERRERO, ESQUIRE
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1747 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006
(202) 454-2811

1 Q. So you know that that's a hazard, an occupational hazard, so
2 to speak. Right?

3 A. Yes.

4 Q. Did you tell Reggie that you were storing drugs at the
5 house?

6 A. No. Because I wasn't leaving my drugs at the house.

7 Q. It wasn't in your interest to tell him that at the time, was
8 it?

9 A. Because I wasn't leaving my drugs at the house.

10 Q. Now, remember you had testified about this bicycle, this
11 motorbike with Joseph Jones?

12 A. Yes.

13 Q. Now, isn't it a fact -- and that was a 750 cc. Right?

14 A. I don't recall what type.

15 Q. The bike. It was valued at about \$2,000?

16 A. I believe so.

17 Q. And I want you to think very carefully about this before
18 answering. Try to go back to when you first saw the bike. Do
19 you remember when you first saw it?

20 A. Yeah.

21 Q. Do you remember what color it was?

22 A. I think it was red.

23 Q. It was red. And do you remember the make of the bike?

24 A. I do not.

25 Q. It's a nice-looking bike, though. Right?

1 A. Yeah.

2 Q. And you wanted it. Right?

3 A. Correct.

4 Q. And don't you recall paying Mr. Joseph Jones \$1,300 for that
5 bike?

6 A. In drugs. I gave him a 31 of drugs.

7 Q. You gave him a 31?

8 A. Of drugs.

9 Q. And you did not give him \$1,300?

10 A. No, I gave him 31 grams of drugs.

11 Q. Now, this 31 in drugs that you gave him, was that -- that
12 happened after Sheila got locked up. Right?

13 A. I don't know. It could have been before or after.

14 Q. You're not sure?

15 A. Not sure.

16 Q. And your testimony is that you never sought to get the drugs
17 or the money back from Jojo. Right?

18 A. That's correct.

19 Q. And that's the truth?

20 A. That's the truth.

21 Q. And you grew up in Congress Park?

22 A. Yes.

23 Q. And you were out there selling from time to time?

24 A. Yes.

25 Q. And you were not a stranger to others in Congress Park.

Exhibit E

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : May 7, 2007
 DOMINIC SAMUELS, : 9:20 a.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 46 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
Gilberto Guerrero, Assistant
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For Defendant
Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 Q. Was that a violation of your conditions of release?

2 A. Yes, it was.

3 Q. Have you used any other drugs, other than smoking weed?

4 A. Nope.

5 Q. And jumping back, talking about -- you talked about
6 getting drugs from Boy-Boy back in 1994. What happened then?
7 How -- did you continue to sell drugs? How often did you
8 continue to sell drugs after that time?

9 Once you got that drugs the first time from Boy-Boy, tell
10 us about your drug dealing after that. How often?

11 A. I mean, every day I just sold drugs around the park.

12 Q. You said every day you sold drugs around the park?

13 A. Like I say, not every day because one day I might not
14 have had nothing. I might have been broke or -- but basically,
15 I was trying to come up in the drug world.

16 Q. And in 1994, how old are you?

17 A. Fourteen. It's either --

18 MR. PURPURA: Objection.

19 THE WITNESS: -- 13 or 14, because my birthday is on
20 September 3rd, so it depends on if it was early or if it was
21 late.

22 BY MS. PETALAS:

23 Q. You said you were either 13 or 14th because your birthday
24 is on September 3rd. That's right around your birthday that you
25 started?

1 A. Hum?

2 Q. That you started getting the drugs from Boy-Boy?

3 A. Okay. Let me see. My birthday -- if I was going back to
4 school, my birthday was coming up at least two to three days
5 after that, or something like that, going back to school.

6 Q. So --

7 A. Because my birthday is like -- ain't that Labor Day on
8 the September 2nd or something? Or whatever holiday that is, my
9 birthday on the 3rd, so --

10 Q. And so I just want to clarify. Was this right around
11 when you turned -- either right before you turned 14 or right
12 after you turned 14? Is that what you're trying to say?

13 A. Yes, yes.

14 Q. And who did you get drugs from after that first time you
15 got from Boy-Boy?

16 A. Boy-Boy -- I mean, everybody, like it's -- I have to name
17 names?

18 Q. Yes.

19 A. Okay.

20 Q. When you say "everybody," who do you mean?

21 A. Up, Boy-Boy, Twan, Wop, Jo-Jo -- Twan, Jo-Jo, Wop --

22 Q. Let me stop you right there.

23 A. Hold on. Hold on. I'm going to go -- it's just so many
24 names.

25 THE COURT: I think she wants you to hold on because she

1 often would you -- would it be a weekly occurrence? Monthly
2 occurrence? How often could you get from Boy-Boy? Or would you
3 get from Boy-Boy?

4 MR. BEANE: Objection, Your Honor. Asked and answered.

5 THE COURT: I'll allow it.

6 You can answer it.

7 THE WITNESS: It might be every day, every other day. If
8 I had some money or if he wanted to give me something, he'd throw
9 me some dimes or --

10 BY MS. PETALAS:

11 Q. You said if he wanted to give you something. Would there
12 be times when he would give you coke?

13 A. Yeah -- yes.

14 Q. You also mentioned an individual named Meat. Who's Meat?

15 A. A friend of all of ours from down Good Hope Road.

16 Q. And how was it that you met Meat?

17 A. I met Meat like years ago on Good Hope Road, going down
18 there with Aman.

19 Q. And what amounts of crack cocaine did you get from Meat?

20 MR. ZUCKER: Objection -- withdrawn.

21 BY MS. PETALAS:

22 Q. You can answer the question.

23 A. I used to get ounces from him.

24 Q. And do you know Meat's proper name?

25 A. Dimitrius Spencer.

1 on Savannah, then, you know, you might have some here, some
2 there, but everybody on the majority of the Savannah side. Then
3 towards the end of the 10th Place beef, everybody was more on
4 the like -- more like on the Lincoln and The Circle, you know
5 what I'm saying? You still had Boy-Boy stayed in the alley,
6 rolled around, did his thing, you know, but us, we was in front
7 of the Lincoln or in The Circle, like we always stood in front
8 of the Lincoln, but we was there. If you wanted some coke, we
9 were either in front of the Lincoln or in The Circle. Nobody
10 was hanging around the Savannah side no more.

11 Q. And you mentioned before, you said everybody used to
12 float through the neighborhood. Did people sell in The Circle
13 prior to this?

14 A. Yeah.

15 Q. And how about the Lincoln?

16 A. Yeah. Yes.

17 Q. Prior to this, I meant prior to this time you're talking
18 about, where you're now posting up in The Circle.

19 A. Yes.

20 Q. You used to, a lot of the time -- when you were talking
21 earlier, you talked about -- you said towards the end of 10th
22 Place, we were in front of the Lincoln and The Circle. Who are
23 you talking about when you say "we"?

24 A. Uhm, all the rest of the people in Congress Park, like
25 Wop, Drano, Don, DC, me, JT. Jo-Jo may post up for a minute,

1 but he would go back around the alley. Dazz, Phil, all of us,
2 we was just right there. We would circle the Lincoln.

3 Q. Okay. And you said -- you talked about Jo-Jo. You said
4 he used to post up, but then he'd go back around the alley.
5 Where are you talking about there?

6 A. It's right there. (Indicating.) They would be standing
7 right there.

8 MR. ZUCKER: I'm sorry, we couldn't hear.

9 BY MS. PETALAS:

10 Q. You need to talk in the microphone.

11 A. They would be standing like -- they be posted up right
12 there, like they be sitting right there, drinking and just
13 chilling.

14 Q. And you said -- for the record, you put a dot kind of --

15 A. It's the alley.

16 Q. The alley that's below Savannah Street, in-between
17 Savannah Street and Congress Street; is that correct?

18 A. Yes.

19 Q. And the dot you put was kind of at the end of that alley,
20 just kind of down below the two Ns in Savannah Street; is that
21 correct?

22 A. Yes, like -- I'll see if I can press it again.
23 (Indicating). Right there.

24 Q. And earlier you had mentioned -- you talked about getting
25 drugs from Jo-Jo. Roughly, what time was it that you got drugs

1 from Jo-Jo?

2 A. Time frame? As far as how long I was getting drugs from
3 him?

4 Q. Yes.

5 A. Uhm, I got drugs from him a couple of times. Like I
6 could say maybe three, four times I bought a half from him. He
7 said he was getting the coke from Meat.

8 Q. You said three or four times you bought a half of what?

9 MR. MARTIN: Objection, Your Honor, non-responsive to the
10 question, which called for a time frame.

11 THE COURT: She's putting a new question then.

12 Go ahead.

13 BY MS. PETALAS:

14 Q. You said three or four times you bought a half from him.
15 How old were you, roughly, in this instance?

16 A. I can't remember how old that was. It was in the time
17 when I was dealing with Meat, so you can say -- I had to be
18 either 16 -- either I was 15, 16, right -- juvenile, and then
19 when I got out. -- naw, when I got out, Jo-Jo was working with
20 the STEP Foundation and shit, so it was when -- before the
21 juvenile, before I did the -- like in the course of that, he was
22 getting the coke from Meat.

23 Q. Okay. So this was before you got locked up as a
24 juvenile?

25 A. To be positive, I can't confirm when -- how old I was. I

1 can just leave it at that.

2 Q. Okay. But can you recall getting drugs from Jo-Jo?

3 A. Yes.

4 Q. And you said three or four times?

5 A. Yes.

6 Q. And how much would you get from him?

7 A. A half.

8 Q. A half of what?

9 A. Half ounce.

10 Q. How many grams is that?

11 A. Fourteen.

12 Q. You said you also sold to him?

13 A. Yes.

14 Q. When was that?

15 A. I mean, I done sold Jo-Jo wholesales.

16 Q. Was this right around the same time you were getting from
17 him, or before or after?

18 A. Naw, this was after, like, you know, Joe might even get a
19 wholesale. He wasn't -- after a while, Jo-Jo wasn't hustling
20 like that. He was working with the STEP Foundation.

21 Q. So when did you sell him wholesales?

22 A. I used to sell him wholesales when he was working with
23 the STEP Foundation too, but he wasn't really out there, out
24 there banging, but he may sling a couple dimes here and there.

25 Q. When you said he was with the STEP Foundation. We'll get

Exhibit F

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, : Docket No. CR 05-100
:
Plaintiff :
:
v. : Washington, DC
:
ANTWUAN BALL, :
DAVID WILSON, :
GREGORY BELL, : April 30, 2007
DESMOND THURSTON, :
JOSEPH JONES, :
DOMINIC SAMUELS, :
:
Defendants : 9:15 a.m.
..... :

VOLUME 42 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS,
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE
GLENN S. LEON, ESQUIRE
GIL GUERRERO, ESQUIRE
UNITED STATES ATTORNEY'S OFFICE
555 Fourth Street, NW
Washington, D.C. 20530

For the Defendant JOHN JAMES CARNEY, ESQUIRE
Antwuan Ball: CARNEY & CARNEY
601 Pennsylvania Avenue, NW
Suite 900, South Building
Washington, DC 20004
(202) 434-8234

STEVEN CARL TABACKMAN, ESQUIRE
TIGHE, PATTON, ARMSTRONG,
TEASDALE, PLLC
1747 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006
(202) 454-2811

1 THE COURT: Why don't you clarify?

2 BY MR. LEON:

3 Q. Did you see him, yes or no, possess guns, weapons, in the
4 apartment you just described?

5 A. Yes.

6 Q. Okay. Did you see Antwuan Ball, yes or no, possess weapons
7 out on the street?

8 A. Yes.

9 Q. Did you ever supply any -- excuse me. Did you ever supply
10 any guns yourself to Antwuan Ball?

11 A. Yeah, I gave him a gun or two.

12 Q. Okay. What guns do you remember, you remember giving to
13 Antwuan Ball?

14 A. I know an Uzi. I remember giving him an Uzi.

15 Q. You gave him an Uzi?

16 A. Yeah. It was once I gave him an Uzi.

17 Q. Do you remember, yes or no, if you gave him any other guns
18 other than the Uzi that you can remember?

19 A. Naw, not that I recall.

20 Q. Did you -- through your contacts with Antwuan Ball buying
21 and selling crack cocaine and powder cocaine to each other, did
22 you get to know some of the people that Antwuan Ball sold his
23 drugs to?

24 A. Yes.

25 Q. Okay. And how did you get --

1 MR. MARTIN: Objection, Your Honor. Well, go ahead,
2 ask that question.

3 BY MR. LEON:

4 Q. You said yeah, yes. How do you know who these people are
5 that Antwuan Ball sold his drugs to?

6 A. Hold on.

7 Q. If it's not clear, I can ask --

8 A. Yeah, you going to have to ask that again. Because you
9 started asking one question, then you ended asking another.

10 Q. I do that a lot. I'll try again.

11 Did you ever see Antwuan Ball sell his drugs to other
12 people?

13 A. I can't say I saw him give somebody something, but in
14 discussion, we've talked about, you know, maybe who owes him
15 money.

16 MS. WICKS: Objection. Nonresponsive.

17 MR. TABACKMAN: Objection. Nonresponsive. Move to
18 strike.

19 THE COURT: Overruled.

20 BY MR. LEON:

21 Q. Okay. You said that you and he, you and Antwuan Ball,
22 talked about who owed Antwuan Ball money?

23 A. That's what I said.

24 Q. Who were some of the people that Antwuan Ball --

25 MR. ZUCKER: Objection. Unless it can be clearly

1 linked to the subject at hand.

2 THE COURT: This is a '99 to 2001 time frame?

3 MR. LEON: Yes.

4 THE COURT: Overruled.

5 MR. ZUCKER: Objection. The objection is it's not
6 clear what the debts are for, based on this conversation.

7 THE COURT: Do you want to clarify?

8 MR. LEON: Sure.

9 BY MR. LEON:

10 Q. Based on the conversations that you, Steve Marsh, had with
11 Antwuan Ball between 1999 and May of 2001, did you learn what
12 these debts were for?

13 MR. TABACKMAN: Objection. Hearsay.

14 THE COURT: From whom?

15 MR. LEON: From Antwuan Ball.

16 A. Yes.

17 BY MR. LEON:

18 Q. What were these debts owed to Antwuan Ball for?

19 A. Drugs --

20 MS. WICKS: Objection.

21 A. -- crack cocaine.

22 THE COURT: Basis?

23 MS. WICKS: Not in furtherance, Your Honor.

24 THE COURT: Overruled.

25 BY MR. LEON:

1 Q. And who were these people that owed Antwuan Ball money for
2 crack cocaine debts?

3 A. Fat Tony, Jojo. That's the only ones I can think of off the
4 top...

5 Q. You said Jojo?

6 A. Yep.

7 Q. And Fat Tony?

8 A. Yep.

9 Q. I think you said that there was somebody named Tony who also
10 shared the apartment with Antwuan?

11 A. Yeah.

12 Q. Is that the same Tony?

13 A. No.

14 Q. Do you know any other names or nicknames for the Tony who
15 Antwuan shared the apartment with?

16 A. Not that I know of.

17 Q. Did you get to know, first just yes or no, who some -- who
18 else, if anyone, Antwuan Ball also got supplied drugs from?

19 MR. ZUCKER: Objection. Foundation.

20 THE COURT: Overruled.

21 A. I never met anybody who he got drugs from.

22 BY MR. LEON:

23 Q. Other than you?

24 A. Other than, yeah, me.

25 Q. Did you learn -- this is just a yes or no question. Yes or

Exhibit G

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : April 2, 2007
 DOMINIC SAMUELS, : 1:55 p.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 27 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
Gilberto Guerrero, Assistant
United States Attorney
555 4th Street
Washington, DC 20001
202.305.0174

For Defendant
Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 A. Ten dime sales?

2 Q. Yeah.

3 A. It break down four ways.

4 Q. And first of all, did you personally participate in this
5 unos, dose, tres system?

6 A. Yes, sir.

7 Q. How many times would you say you personally participated
8 in this system?

9 A. So many times I can't recount.

10 Q. Who did you share sales with?

11 A. Wop, Dazz, Phil, Drano, Tweety, Ju-Ju, Jo-Jo, LT
12 Terrence, Cat Eye Tony.

13 Q. I think you indicated that this system was done for
14 safety reasons?

15 MR. ZUCKER: Objection.

16 THE WITNESS: Yes, sir.

17 BY MR. LEON:

18 Q. Explain what you mean by that.

19 A. Like I was saying earlier, so you won't go out. Meatball
20 and Head got shot in drive-byes, so we wouldn't go out in the
21 front line to try to make a purchase and a car come by and we
22 get shot up; whereas in the alley in the cut we could see what's
23 going on down on the street.

24 Q. Through the uno, dos system, how would people actually go
25 out to make the sale itself?

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : April 18, 2007
 DOMINIC SAMUELS, : 9:16 a.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 36 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
Gilberto Guerrero, Assistant
United States Attorney
555 4th Street
Washington, DC 20001
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For Defendant
Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 A. Because the game was -- the game was already established.
2 Everybody respected the game.

3 Q. And did you ever play the game doors with Don?

4 A. Yes.

5 Q. How about DC?

6 A. Yes.

7 Q. How about Munya?

8 A. Yes.

9 Q. How about -- well, who else would you play the game doors
10 with?

11 A. Dion, Jo-Jo, JT, Santu, Dazz, Phil.

12 Q. You mentioned Dazz a couple times. Let me interrupt you.

13 MR. ZUCKER: Objection.

14 BY MS. PETALAS:

15 Q. You mentioned Dazz a couple --

16 MR. ZUCKER: Misstates the evidence. This is the first
17 mention of Dazz.

18 MS. PETALAS: Actually, I don't believe that's true, but
19 I'll move on, Your Honor.

20 BY MS. PETALAS:

21 Q. You just mentioned Dazz. Do you see Dazz in the
22 courtroom today?

23 A. Yes.

24 Q. Would you please identify him by where he's sitting.

25 A. To the left of me, with a yellow shirt on.

1 MS. PETALAS: Your Honor, may the record reflect an
2 in-court identification of Desmond Thurston? I think he's the
3 only one wearing --

4 MR. ZUCKER: I don't see any yellow shirt. On the other
5 hand, I think --

6 Mr. Thurston, would you stand up, please.

7 THE WITNESS: Yeah, that's Dazz right there.

8 MR. ZUCKER: Thank you. Stipulate to the identification.

9 BY MS. PETALAS:

10 Q. You mentioned Dazz. How often -- you said you played
11 doors with Dazz?

12 A. Yes.

13 Q. And where would you play doors with Dazz?

14 A. In the circle, in the Lincoln, in the alley.

15 Q. How about Wop? Did you ever play doors with Wop?

16 A. No.

17 Q. Would you ever be playing the game doors when Wop was
18 around?

19 A. Yes.

20 Q. And why was it that you didn't play doors with Wop?

21 MS. WICKS: Objection.

22 THE COURT: Basis?

23 MS. WICKS: Foundation.

24 THE COURT: Overruled.

25 BY MS. PETALAS:

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	Docket No. CR 05-100
	:	
Plaintiff	:	
	:	
v.	:	Washington, DC
	:	
ANTWUAN BALL,	:	
DAVID WILSON,	:	
GREGORY BELL,	:	May 21, 2007
DESMOND THURSTON,	:	
JOSEPH JONES,	:	
DOMINIC SAMUELS,	:	
	:	
Defendants	:	2:00 p.m.
.	:

VOLUME 53 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS,
UNITED STATES DISTRICT JUDGE, and a jury

APPEARANCES:

For the United States: ANN H. PETALAS, ESQUIRE
GLENN S. LEON, ESQUIRE
GIL GUERRERO, ESQUIRE
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STEVEN CARL TABACKMAN, ESQUIRE
TIGHE, PATTON, ARMSTRONG,
TEASDALE, PLLC
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Washington, DC 20006
(202) 454-2811

1 MR. BALAREZO: Your Honor, objection. It's a
2 narrative, it's nonresponsive.

3 THE COURT: Sustained.

4 BY MR. GUERRERO:

5 Q. I want to now ask you a little bit more focused on the
6 circle, and then we'll go to other areas.

7 During the time period that you were selling crack
8 cocaine in the circle, did you become aware of what uno/dos, or
9 doors, is?

10 A. Yes, sir.

11 Q. And how did you become aware of that?

12 A. I mean, it was just something that was always played since
13 when I way started -- from when I first started hustling,
14 uno/dos. It was like the way you got your sales. It was so
15 many people hustling, you just couldn't say, "oh, it's my turn,
16 my turn."

17 So as soon as the sale come up on the scene, it's uno.
18 Whoever call uno, that's the first person get the sale. Dos,
19 you break the sale down with dos.

20 Q. Who did you see playing this game in the circle?

21 A. Oh, me, Kairi, Don, Wop, Dazz, Phil, Terrence, Jazz, Santu,
22 Kay-Bay, everybody.

23 Q. Did you ever see Antwuan playing the game?

24 A. No.

25 Q. Did you ever play with Wop yourself?

Exhibit H

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : April 2, 2007
 DOMINIC SAMUELS, : 1:55 p.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 27 - AFTERNOON SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
Gilberto Guerrero, Assistant
United States Attorney
555 4th Street
Washington, DC 20001
202.305.0174

For Defendant
Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 A. It's like '97, early part.

2 Q. Early part of '97?

3 A. Yes, sir.

4 Q. Did -- during these conversations in the early part of
5 '97 that you're having with Wop and Dazz, you said, I believe,
6 that Wop -- excuse me, that Dazz did not disagree with the talk
7 of retaliation. Did Dazz ever say anything himself about
8 retaliation?

9 A. Yes, sir.

10 Q. Tell us what Dazz said about retaliation.

11 A. That they went down there and got in a shootout with some
12 guys with 10th Place.

13 Q. Who told you this?

14 A. Dazz.

15 Q. When did Dazz tell you this?

16 A. I don't got no date on it, sir, but I remember him
17 telling me in the early part of '97.

18 Q. Early part of?

19 A. '97.

20 MR. ZUCKER: Could I ask the witness to define what is the
21 early part of '97? Is there any way to focus it?

22 THE COURT: No.

23 BY MR. LEON:

24 Q. What is the early part of '97 to you, Mr. Capies?

25 A. January, February.

1 Q. Okay. Was this a specific conversation you can remember?

2 A. Yes.

3 Q. Tell us the specific conversation you remember having in
4 January, February, where Dazz told you about retaliating.

5 A. He told me that him, Antwuan, LT, and Wop went down
6 10th Place to try to creep down on them guys, and somebody
7 opened fire on them, which they believe was Steve and Patrick,
8 and they stopped the car and jumped out and opened fire back.

9 Q. Okay. You've said a few things there. Let's just follow
10 up. First of all, Dazz told you about this?

11 A. Yes, sir.

12 Q. And he told you that Dazz was there and who else?

13 A. LT, Twan, and Wop.

14 Q. So four people in total?

15 A. Yes, sir.

16 Q. Okay. And where did this shooting happen?

17 A. On 10th Place.

18 Q. Did he tell you where on 10th Place?

19 A. No. He just said 10th Place.

20 Q. And did Dazz tell you who's idea it was to drive to
21 10th Place to do this shooting?

22 A. I don't remember.

23 Q. Okay. And did he tell you how they got there?

24 A. Yes. By car.

25 Q. Did he tell you whose car?

1 A. No, I don't remember, sir.

2 Q. Okay. And did he tell you who from Congress Park, who
3 from the group Dazz was with, actually fired weapons?

4 A. All of them that was in the car that I named.

5 Q. All four?

6 A. Yes.

7 Q. And I believe you said that they were firing at Steve and
8 Patrick?

9 A. Yes.

10 Q. Anybody else?

11 A. A dude named Redhead.

12 Q. Redhead. And did Dazz indicate to you whether or not
13 either Redhead or Steve or Patrick, any of those three fired
14 back?

15 A. Yes.

16 Q. Did they?

17 A. Yes.

18 Q. Who?

19 A. Steve and Patrick.

20 Q. And?

21 A. And Redhead.

22 Q. So all three did fire back?

23 A. Yes.

24 Q. Did Dazz indicate to you if anyone, anyone from
25 Congress Park or anyone from 10th Place, was actually hit with

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : May 7, 2007
 DOMINIC SAMUELS, : 9:20 a.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 46 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
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States Attorney
Ann H. Petalas, Assistant United
States Attorney,
Gilberto Guerrero, Assistant
United States Attorney
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Washington, DC 20001
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For Defendant
Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 on Savannah, then, you know, you might have some here, some
2 there, but everybody on the majority of the Savannah side. Then
3 towards the end of the 10th Place beef, everybody was more on
4 the like -- more like on the Lincoln and The Circle, you know
5 what I'm saying? You still had Boy-Boy stayed in the alley,
6 rolled around, did his thing, you know, but us, we was in front
7 of the Lincoln or in The Circle, like we always stood in front
8 of the Lincoln, but we was there. If you wanted some coke, we
9 were either in front of the Lincoln or in The Circle. Nobody
10 was hanging around the Savannah side no more.

11 Q. And you mentioned before, you said everybody used to
12 float through the neighborhood. Did people sell in The Circle
13 prior to this?

14 A. Yeah.

15 Q. And how about the Lincoln?

16 A. Yeah. Yes.

17 Q. Prior to this, I meant prior to this time you're talking
18 about, where you're now posting up in The Circle.

19 A. Yes.

20 Q. You used to, a lot of the time -- when you were talking
21 earlier, you talked about -- you said towards the end of 10th
22 Place, we were in front of the Lincoln and The Circle. Who are
23 you talking about when you say "we"?

24 A. Uhm, all the rest of the people in Congress Park, like
25 Wop, Drano, Don, DC, me, JT. Jo-Jo may post up for a minute,

1 but he would go back around the alley. Dazz, Phil, all of us,
2 we was just right there. We would circle the Lincoln.

3 Q. Okay. And you said -- you talked about Jo-Jo. You said
4 he used to post up, but then he'd go back around the alley.
5 Where are you talking about there?

6 A. It's right there. (Indicating.) They would be standing
7 right there.

8 MR. ZUCKER: I'm sorry, we couldn't hear.

9 BY MS. PETALAS:

10 Q. You need to talk in the microphone.

11 A. They would be standing like -- they be posted up right
12 there, like they be sitting right there, drinking and just
13 chilling.

14 Q. And you said -- for the record, you put a dot kind of --

15 A. It's the alley.

16 Q. The alley that's below Savannah Street, in-between
17 Savannah Street and Congress Street; is that correct?

18 A. Yes.

19 Q. And the dot you put was kind of at the end of that alley,
20 just kind of down below the two Ns in Savannah Street; is that
21 correct?

22 A. Yes, like -- I'll see if I can press it again.
23 (Indicating). Right there.

24 Q. And earlier you had mentioned -- you talked about getting
25 drugs from Jo-Jo. Roughly, what time was it that you got drugs

Exhibit I

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
Plaintiff, : Docket No. CR 05-100
 :
v. :
 :
ANTWUAN BALL, DAVID WILSON, : Washington, DC
GREGORY BELL, DESMOND :
THURSTON, JOSEPH JONES, and : April 4, 2007
DOMINIC SAMUELS, : 9:36 a.m.
 :
Defendants. :
 :
 :
 :

VOLUME 29 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
Gilberto Guerrero, Assistant
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202.305.0174

For Defendant
Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 Q. What do you mean, "before"? When?

2 A. I can't remember the date, but I remember them taking
3 drugs off of me.

4 Q. And when you -- you, Bobby Capies -- would hide drugs in
5 your shorts -- I'm going to ask you to be as specific as
6 possible -- where would you actually hide them?

7 A. Under my nuts, part of my sack.

8 Q. Would you -- you, Bobby Capies -- ever hide drugs in your
9 rectum?

10 A. Before, I have.

11 Q. You have?

12 A. Yes, sir.

13 Q. When you say "before," what do you mean by that?

14 A. When they start really getting frisky, like going hard,
15 going down in and checking and stuff under your sacks.

16 Q. Did you stop doing that or -- you said before, was there
17 a time you stopped hiding drugs there?

18 A. No, not really, but you know, if you see them. We always
19 be where you can see them or somebody would tell us they coming
20 and that's when we do it.

21 Q. And when you say "someone would tell us they're coming,"
22 who do you mean by "us"?

23 A. The guys that I was hanging with in '96 all the way up to
24 2001 area.

25 Q. You're talking about 1996 to 2001?

Exhibit J

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Docket No. CR 05-100
 :
 v. :
 :
 ANTWUAN BALL, DAVID WILSON, : Washington, DC
 GREGORY BELL, DESMOND :
 THURSTON, JOSEPH JONES, and : April 3, 2007
 DOMINIC SAMUELS, : 9:30 a.m.
 :
 Defendants. :
 :
 :
 :

VOLUME 28 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE RICHARD W. ROBERTS
UNITED STATES DISTRICT COURT JUDGE, and a JURY

APPEARANCES:

For the United States: UNITED STATES ATTORNEY'S OFFICE
Glenn S. Leon, Assistant United
States Attorney
Ann H. Petalas, Assistant United
States Attorney,
Gilberto Guerrero, Assistant
United States Attorney
555 4th Street
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202.305.0174

For Defendant
Antwuan Ball: CARNEY & CARNEY
John James Carney, Esq.
South Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004
202.434.8234

1 A. I kind of had a little fear of him, because he -- I came
2 up under him, like before he did it, but after it, not no more.

3 Q. Well, you said you're not afraid of him, did you ever
4 kill him?

5 A. No.

6 Q. Why not?

7 A. Because once I seen Wop tried to have a little nod, like
8 he wasn't trying to do nothing about it, it would be me against
9 the park. I would have got killed.

10 Q. When you say you "against the park," who do you mean by
11 that?

12 A. Everybody that I ever named in Congress Park.

13 Q. Everyone you've named previously?

14 A. Yes, sir.

15 Q. Yes or no, does that include Jo-Jo?

16 MR. MARTIN: Objection.

17 MR. TABACKMAN: Objection.

18 THE COURT: Yes, vague.

19 MR. TABACKMAN: He did not ask --

20 THE COURT: Sustained.

21 MR. LEON: I'll withdraw it.

22 BY MR. LEON:

23 Q. Did you ever -- you told us about two conversations with
24 Antwuan.

25 Have you ever talked to Antwuan, just you and Antwuan,